

Taxi Industry Review Group

Taxi Industry Act 1995 and
luxury hire car legislation

Regulatory Impact Statement

April 2000

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1 Introduction

1.1 Background

This Regulatory Impact Statement (RIS) has been prepared as part of a review of the *Taxi Industry Act 1995* and the *Taxi and Luxury Hire Car Industries Reform Bill 1999*. The review is being undertaken in accordance with Tasmania's Legislation Review Program as part of the State's obligations under the National Competition Policy (NCP). These legislative reviews are founded on the principle that the free operation of markets is generally regarded as the most effective way of allocating resources and that any form of regulation that restricts competition must be justified as being in the public benefit.

Governments in most jurisdictions have held the views that the market for taxi services has a number of imperfections or 'market failures' and that there is significant potential for overlap between the taxi and luxury hire car industries. The taxi and luxury hire car industries have therefore been subject to high levels of regulation. The reasons that have typically been advanced include the following:

- protect public safety by having safe vehicles and drivers;
- avoid excessive localised traffic congestion as taxis vie for business on the streets;
- control the market power of radio rooms where localised monopolies are created by taxis working together in more economic units;
- ensure a basic quality of vehicle and driver in the industry;
- benefit other industry sectors such as tourism by ensuring a high quality of service;
- ensure adequate levels of taxi services in outlying and remote areas, and at all times of the day;
- avoid situations where passengers are exploited because they are not fully informed about the fares available from other taxis;
- ensure fare levels strike a suitable balance between returns to industry and a fair price for consumers;
- ensure orderly industry behaviour in obtaining hirings; and
- effectively manage the overlap between the taxi and luxury hire car industries.

The legislative measures imposed on the taxi and luxury hire car industries to obtain these outcomes act as 'restrictions on competition' and therefore must be assessed under the NCP.

Accordingly, the Taxi Industry Review Group (the Review Group) was appointed in May 1999 by the Hon Paul Lennon MHA, Deputy Premier and Minister for Infrastructure, Energy and Resources and the Hon Dr David Crean MLC, Treasurer. The Review Group was required to review the *Taxi Industry Act 1995*, the proposed amendments to that Act in the form of the *Taxi and Luxury Hire Car Industries Reform Bill 1999* (subsequently passed by Parliament in November 1999 but not yet in force) together with all relevant subordinate legislation.

The Terms of Reference for the review of the *Taxi Industry Act 1995* and amendments in relation to luxury hire cars are reproduced at Appendix A. The membership of the Review Group is shown in Appendix B. The timetable for the review is shown in Appendix C.

A draft RIS was released for public comment in November 1999.

1.2 This report

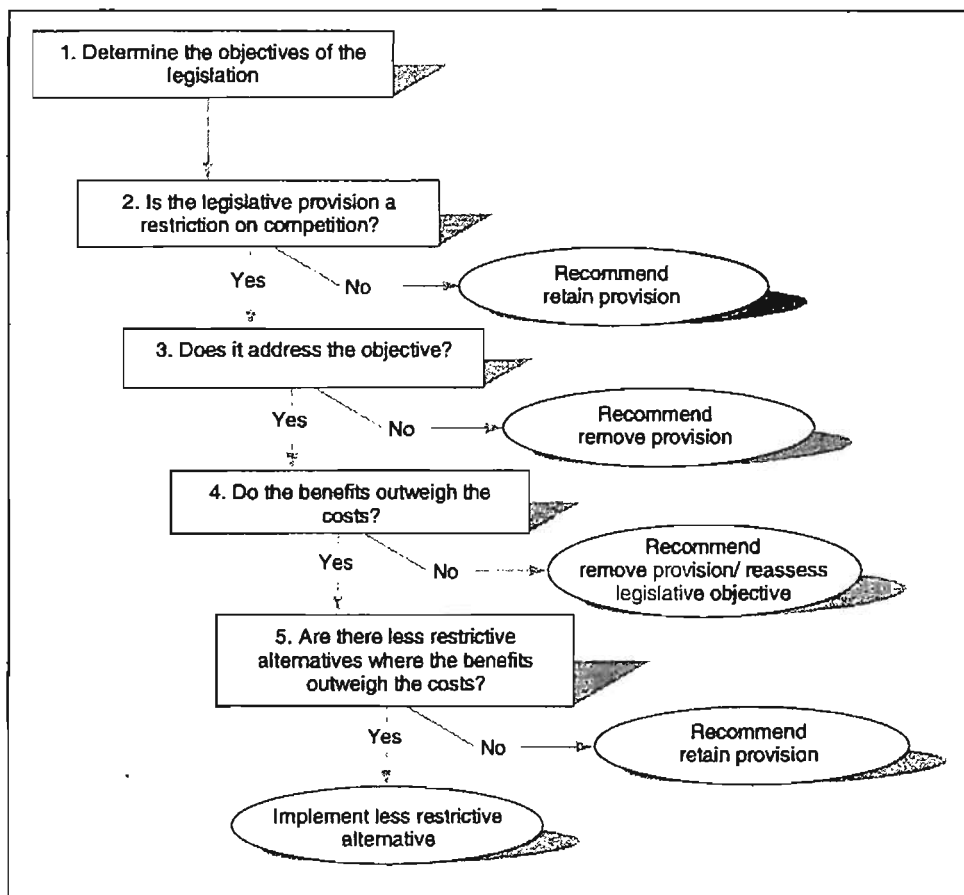
This report is a Regulatory Impact Statement that:

- identifies the objectives of the taxi and luxury hire car legislation;
- identifies and assesses the costs and benefits of the restrictions on competition contained in the legislation; and
- makes recommendations on what action should be taken in response to these restrictions.

1.3 Analytical approach and structure of the RIS

In considering the restrictions on competition inherent in the legislation governing the taxi and luxury hire car industries, the Review Group adopted the analytical approach shown in Figure 1.

Figure 1: Analytical approach



This approach is reflected in the structure of the RIS.

Section 2 provides summary of recommendations in the RIS.

Section 3 provides an overview of the taxi and luxury hire car industries, including current trends and socio-economic issues, the key elements of the current legislation covering these industries and the historical approaches to regulation.

Subsequent sections present the findings of each step of the analytical approach adopted by the Review Group.

- **Step 1: *Determine the objectives of the legislation.*** The Review Group presents its findings in section 4 of this RIS.
- **Step 2: *Is the legislative provision a restriction on competition?*** The Review Group identified a range of provisions which have an impact on competition, which are listed in detail in section 5.
- **Step 3: *Do the restrictions address the objective?*** In section 5 the Review Group has determined which of the restrictions on competition meet the objectives of the taxi and luxury hire car legislation.
- **Step 4: *Do the benefits outweigh the costs?*** This Review Group has assessed the costs and benefits of each of the restrictions on competition that meet the objectives of the Act and considered whether they can be justified in the public benefit. These are detailed in sections 6 & 7.
- **Step 5: *Are there less restrictive alternatives where the benefits outweigh the costs?*** Sections 6 and 7 also include the Review Group's assessment of less restrictive alternatives that address the same objectives.
- **Step 6: *Develop recommendations.*** The final step is to conclude the analysis and present recommendations. The Review Group's recommendations are found in Sections 6 and 7 and are summarised in section 2 of this RIS.

In preparing this RIS, the Review Group has produced and circulated:

- a Discussion Paper entitled Review of Taxi and Luxury Hire Car Legislation in Tasmania. This identified the objectives of the legislation and the restrictions on competition in the legislation. The paper also outlined the key issues and a range of possible alternatives in relation to each restriction. A number of written submissions were received in relation to that report and a series of public hearings were held; and
- a draft RIS. Following the feedback on the Discussion Paper, the Review Group prepared a draft RIS for public comment. In addition to identifying the objectives of the taxi and luxury hire car legislation, the draft RIS identified and assessed the costs and benefits of the restrictions on competition contained in the legislation and made provisional recommendations on what action should be taken in response to these restrictions.

2 Summary of recommendations

2.1 Outcomes of analysis of the *Taxi Industry Act 1995*

2.1.1 Recommended changes to the intent and objectives of the Act

The Review Group established the intent of the Act as:

“to ensure the provision of a safe, demand responsive, supplementary public transport system in all areas of Tasmania that adequately meets the needs of various groups in the community in an orderly and commercially viable manner”

The Review Group established the following objectives in support of this intent:

- 1 Ensure safe operating conditions for passengers and drivers.
- 2 Ensure appropriate minimum quality standards in the taxi industry.
- 3 Ensure the availability of adequate standard taxi services at reasonable prices.
- 4 Enable variation in taxi services to meet community demands at prices determined by market forces.

2.1.2 Restrictions on competition to be removed

The Review Group has concluded that the following restrictions on competition should be removed on the basis they do not meet the objectives of the legislation:

- the legislative provision relating to the requirement to carry no more than 50 kilograms of unaccompanied freight; and
- the requirement to use a new vehicle with a licence issued by the Transport Commission.

2.1.3 Recommended action on restrictions on competition

The following table summaries the key elements of the Review Group’s recommendations for each restriction on competition identified in section 6. These recommendations, together with the recommendations to remove the restrictions regarding the carriage of freight and the requirement to use a new vehicle with a licence issued by the Transport Commission, comprise the changes to the *Taxi Industry Act 1995* supported by the Review Group. The Review Group recommends that the remaining provisions of the *Taxi Industry Act 1995* be retained.

Restriction	Summary of recommendations	Ref.
1. Licensing (Section 6.2)	<p data-bbox="427 387 1241 622">1. Perpetual licensing should be retained. However, after two years a Working Party should evaluate, for each area, whether there has been effective price and service competition in the provision of taxi services. If the Working Party finds there hasn't been effective competition, the Working Party should review the merits of perpetual licensing, taking into account experience in other jurisdictions.</p> <p data-bbox="427 667 1241 730">2. A process should be undertaken to review capped licence prices in each area as follows:</p> <ul style="list-style-type: none"> <li data-bbox="464 757 1241 853">■ the Valuer-General be required to review the market value, excluding 'goodwill' associated with membership of a radio room, as at 1 July 2000 for taxi licences in each area; <li data-bbox="464 880 1241 1014">■ where the Valuer-General finds that the market value as at 1 July 2000 is different from the current capped value, the capped value, to be known as the assessed market value, be adjusted to the Valuer-General's valuation; and <li data-bbox="464 1041 1241 1176">■ the Valuer-General be asked to review the assessed market value in each area on a triennial basis and following each review the assessed market value for each area be adjusted to the Valuer-General's most recent valuation. <p data-bbox="427 1211 1241 1274">Upon setting the assessed market value in legislation, the mechanism for the issue of taxi licences should be as follows:</p> <ul style="list-style-type: none"> <li data-bbox="464 1301 1241 1473">■ every year the Transport Commission shall call for tenders for taxi licences in each area and the number of licences made available shall be either five per cent of the number of licences in that area (rounded up or down to the nearest whole number) or one, whichever is the greater; <li data-bbox="464 1500 1241 1563">■ the minimum acceptable tender price will be the assessed market value; <li data-bbox="464 1590 1241 1762">■ if, in any area, the average tender price exceeds the assessed market value by more than 10 per cent and all licences are sold, a further tender must be called within that year by the Transport Commission (with the number of licences to be made available calculated as above); and <li data-bbox="464 1789 1241 1886">■ any unsold licences from a tender will remain available for sale at the assessed market value by application until the next tender. <p data-bbox="427 1912 1241 2047">3. A Working Party review the role of radio rooms to consider whether they adequately promote competition for taxi services within areas and whether they can improve their capacity to respond to and adopt innovative practices and new technologies.</p>	6.2.5

Restriction	Summary of recommendations	Ref.
	<ol style="list-style-type: none"> 4. Revenue from the sale of licences should be used for safety initiatives and ongoing programs to improve the taxi industry. 5. Multipurpose taxis should be introduced and that a Working Party consider this matter as a priority. 	
2. Taxi areas (Section 6.3)	<ol style="list-style-type: none"> 1. Taxi areas be retained. 2. A Working Party conduct an assessment of the feasibility of amalgamating adjoining taxi areas with similar capped values and make recommendations to the Secretary of the Department of Infrastructure, Energy and Resources (the Department). 	6.3.4
3. Fares (Section 6.4)	<ol style="list-style-type: none"> 1. Replace the current system of set fares with regulated maximum fares. 2. For the rank and hail market: <ul style="list-style-type: none"> ■ the taxi-meter must be set at the regulated maximum fares; ■ discount fares below the maximum fare may be offered; and ■ any discount available should be advertised on a sign legible from the outside the taxi. 3. For the telephone booked market: <ul style="list-style-type: none"> ■ an individual licensee or group of licensees may negotiate fares below or, for a higher quality service, above the maximum fare; ■ unless agreed otherwise, the fare for a taxi booked through the telephone is the regulated maximum fare; and ■ a fare to be booked through the telephone must not be refused solely because the person seeking the booking is not prepared to pay above the regulated maximum fare for a standard of service. 4. Contracts may be negotiated on a commercial basis between a licensee or group of licensees and users (individual or corporate) without the approval of, or lodgement with, the Transport Commission. 5. A Working Party is to consider alternative fare setting mechanisms including the merits of fares being determined by an independent government body and the role of the Taxi Industry Association of Tasmania. 	6.4.5
4. Standards for drivers (Section 6.5)	<ol style="list-style-type: none"> 1. The current regulatory provisions should be retained. 	6.5.5

Restriction	Summary of recommendations	Ref.
5. Vehicle standards (Section 6.6)	<ol style="list-style-type: none"> Standards in respect of safety and quality should remain unchanged. Vehicle age restrictions on entry be removed but the restrictions on the maximum age that a vehicle can be used as a taxi be retained at 8 years in urban areas and 10 years in rural areas. 	6.6.5
6. Operating conduct (Section 6.7)	<ol style="list-style-type: none"> Restrictions on operating conduct continue to be enforced through legislation. A Working Party revise and expand the current Tasmanian Taxi Industry Association's Code of Conduct to take account of those changes to apply to the taxi and luxury hire car industries. 	6.7.4

2.2 Outcomes of the analysis of the luxury hire car legislation

2.2.1 Recommended changes to the intent and objectives of the Act

The Review Group established the intent of the amendments to the *Taxi Industry Act* relating to luxury hire cars:

'to ensure the provision of a safe, high quality personal hire transport system'

The Review Group established the following objectives in support of this intent:

- Ensure safe operating conditions for passengers and drivers.
- Ensure appropriate minimum quality standards in the luxury hire car industry at a premium to standard taxis.
- Clarify the respective roles of taxis and luxury hire cars.

2.2.2 Recommended action on restrictions on competition

The following table summaries the key elements of the Review Group's recommendations for each restriction on competition identified in section 7.

Restriction	Summary of recommendations	Ref
1 Licensing (Section 7.2)	1 The licence fee of \$5,000 be implemented.	7.2.4
2 Mandatory accreditation (Section 7.3)	1 The mandatory accreditation scheme be adopted.	7.3.4
3 Vehicle standards (Section 7.4)	<ol style="list-style-type: none"> The vehicle standards in respect of safety and quality be adopted. The schedule of vehicles suitable for use as luxury hire cars should also remain unchanged but if the Department finds that hiring activity in the luxury hire car market undermines Objective 	7.4.4

Restriction	Summary of recommendations	Ref
	3 (Luxury Hire Cars), to the extent that the objectives of the <i>Taxi Industry Act</i> are not being adequately met, the Department should review the schedule for vehicles eligible to be luxury hire cars (including their maximum age) and make recommendations to the Minister that restore an appropriate distinction between the luxury hire car industry and the taxi industry.	
4 Operating conduct of drivers (Section 7.5)	1 The controls over driver conduct should remain unchanged. As noted above, the Review Group recommends the Working Party establish an industry Code of Conduct that applies to the taxi and luxury hire car industries to regulate operating conduct in the future and make recommendations to the Secretary of the Department.	7.5.4
5 Driver standards (Section 7.6)	1 The controls relating to driver standards be adopted.	7.6.4

2.3 Other issues to be addressed outside this review process

Throughout the course of this review, a wide range of issues have been put to the Review Group that are beyond the scope of this review, yet in the Review Group's view require further consideration. These matters have been referred to the Department to consider with the industry and other stakeholders to consider modifications to the legislation governing taxis and luxury hire car industries that are not related to 'restrictions on competition'.

In addition, the Review Group has identified a number of areas where further work is required regarding matters that have been considered by the Review Group itself. To progress these matters the Review Group recommends the formation of a Working Party to be established by, and report to, the Secretary of the Department to consider the following issues:

- Review of changes to the Act: a review of the performance of changes to the Act should be conducted after two years. In particular the Working Party should consider whether there has been effective price and service competition in the provision of taxi services, following the partial deregulation of fares and the revised arrangements for issuing new licences. If it is found that there has not been effective competition, the merits of perpetual licensing should be reviewed, taking into account experience in other jurisdictions;
- Radio rooms: the Review Group noted the important role radio rooms play in the taxi industry, both in the larger areas and in cases where there is only a single radio room in an area. The Working Party should review the role of radio rooms to consider whether they adequately promote competition for taxi services within areas and whether they can improve their capacity to respond to and adopt innovative practices and new technologies;
- Multipurpose taxis: a need has been identified to introduce multipurpose taxis. The Review Group recommends that multipurpose taxis be introduced and that a Working Party consider this matter as a priority. As a guide, the Review Group considers multipurpose taxis licences could be made available on a lease basis for a defined period and the leasee be accredited. Under this approach, the Review Group considers the Working Party should be responsible for developing an accreditation agreement, which addresses the following key issues: minimum vehicle quality, how priority can be given to people in wheelchairs, and minimum vehicle availability. The Working Party will also need to consider the ongoing status of Special Purpose Cabs as the taxi style work they currently undertake would be replaced by multipurpose taxis;
- Specialist driver training for multipurpose taxis: if multipurpose taxis are introduced there may be a need for drivers to undertake additional specialist training;
- The fare setting mechanism: the current arrangements are slow to respond to changes in industry costs, which can adversely impact the viability of the industry. Some operators have called for greater involvement by the Taxi Industry Association of Tasmania in the fare setting process. Others have suggested that fares should be set by an independent government body rather than by the Department;
- Taxi areas: the feasibility of amalgamating adjoining taxi areas with similar capped values; and
- An industry Code of Conduct: to promote orderly market behaviour, an industry Code of Conduct be developed for all drivers and operators in the taxi and luxury hire car industries.

3 Industry overview

3.1 Introduction

This section of the RIS provides an overview of the taxi and luxury hire car industries, including current trends and socio-economic impacts, the key elements of the current legislation covering these industries and the historical approaches to regulation.

It is important to understand the scale and scope of these industries, and their positioning and viability within the broader Tasmanian economic environment. The approaches to the regulation of these industries in other jurisdictions are relevant for this Review but there are clearly issues within the Tasmanian environment which need to be considered in tailoring solutions that suit Tasmania's circumstances. Issues that are particularly relevant to Tasmania include a declining population, sluggish performance of the local economy and a widely dispersed population.

This section also outlines other legislation that applies to taxis and luxury hire cars in Tasmania.

3.2 The taxi industry

3.2.1 History of regulation in Tasmania

Taxis in Tasmania historically evolved out of the hire car industry. Originally hire cars were multi-purpose vehicles undertaking both the supplementary public transport work associated with modern taxis and the VIP and tourist work associated with modern luxury hire cars. These vehicles were licensed as public vehicles under Part III of the *Traffic Act 1925*. Licences (valid for three years) were issued for nominal prices provided that the 'public need' could be justified. As two distinct markets emerged, taxis became separately licensed as "cabs" or "taxi-cabs".

In the 1970s a significant number of extra cab licences became available both as a result of the Tasman Bridge collapse, and due to the re-activation of a number of licences that had historically been under-utilised. The industry was seen as oversupplied with taxis and a number of industry restructuring initiatives were adopted with a reduction in the number of licences available and a consequent steady increase in the price of taxi licences traded in the market.

In the late 1980s the taxi industry was keen to establish greater security in the licences, which up until then were still only valid for three years. Extensive discussions with the Government culminated in the *Taxi Industry Act 1995*, which allowed for the progressive conversion of public vehicle cab or taxi-cab licences around the State into new Perpetual Taxi Licences. In this conversion process, the number of taxi areas was reduced from 23 to 19.

All taxis in Tasmania are now licensed under the *Taxi Industry Act 1995*. Key elements of the legislation are:

- taxis are distinguished by their top-light and operate meters to carry passengers "to, from or within" places in their designated taxi area;
- taxis are required to charge fares approved by the Government. The Transport Commission can also authorise special contracts between a licensee or group of licensees and a user, typically a bulk user - for example, to transport flight crews for an airline between the city and airport;

- the fares to be charged are set in regulation, unless a separate fare agreement is reached as part of an approved accreditation scheme;
- taxis can accept phone bookings, hirings from ranks or can be hailed in the street and are not able to refuse a hiring to which they have agreed but are restricted from plying for trade on-street;
- vehicles are inspected every 6 months in terms of their roadworthiness and their general presentation, and they must be less than specified maximum ages;
- drivers of taxis are screened as “fit and proper” by the Department, and must also undertake a special taxi driver training course;
- there is a “capped value” for taxi licences in each taxi area and new licences may be issued at this capped value by the Transport Commission. If the market price is less than the capped value the Transport Commission may specify a limited number of licences to be made available for sale in each area. If the market price is above the capped value the Transport Commission may make available an unlimited number of licences in an area. To date no new licences have been issued under the *Taxi Industry Act*; and
- there is provision for the accreditation of taxi groups, which allows such groups to vary fares and tariff times to serve niche markets or specialised clients.

It should be noted that to date there has been no regulation of radio rooms or any additional regulation in cases where one company, or a cooperative, accounts for all licensees in an area.

3.2.2 Current situation and trends

Taxis are owned and operated in a variety of ways. Most taxis operate through a radio room, which is the face of the taxi industry to the general public for phone bookings. About 65% of taxi work in Hobart is arranged through radio rooms in terms of telephone bookings or contract work¹. The radio rooms manage a fleet of cars and dispatch vehicles to jobs so as to minimise delays to customers and maximise the utilisation of vehicles. For smaller taxi areas, the proportion of taxi work through radio rooms is higher. The balance of taxi work comes from hirings at ranks, with a small amount from hailing in the street.

A significant proportion of taxis are owned and driven by the licensee, with assistance from 1 or 2 other drivers. This proportion is declining, with an increasing number of taxi licences leased or managed through taxi management companies. Taxi management companies manage all aspects of a vehicle’s operation for the licensee, who may take no active part in the industry. There are a small number of multiple licence holders. In Hobart, eight (8) owners control 65 plates while the remaining 145 licences are held by around 100 operators owning between 1 and 4 licences each. This ownership structure is similar in Launceston. Burnie operates as a co-operative of individual licensees, whilst Devonport’s taxi fleet is owned by a single company.

The demand for taxi services is highly variable. There are distinct peaks during the normal day associated with the travel to and from work or school, as well as social peaks on Friday and Saturday evenings. During the week there are significant periods of the time when the demand for taxis is fairly low. Generally, the radio rooms try to manage capacity in order that the supply of taxis match demand, which helps to ensure vehicles operating are reasonably well utilised.

¹ Information regarding the Tasmanian taxi industry has been sourced from: Review of Proposed Changes to Taxi Industry Regulations Transport Tasmania 1989, 1998 Review of Standard Fares – Report prepared for the Taxi Industry Advisory Board, and from Department of Infrastructure, Energy and Resources internal records.

Following the public consultation process it is believed that the supply of taxis in Tasmanian urban centres is adequate to meet normal peak demands; although, at certain times of the year there is a shortage (such as on New Year's Eve or when there are cruise ship visits). This creates a potential demand for temporary taxi licences. The *Taxi Industry Act* enables temporary taxi licences to be issued to accredited taxi groups. To date, no temporary licences have been issued.

The average taxi in Hobart travels about 120,000 km per year and about 53% of taxi mileage is paid for by fares. Taxis also spend a significant proportion of available hire time idle waiting for business. Table 1 details the number of perpetual taxi licences, special purpose cabs (wheelchair accessible 'taxi' style transport) and drivers certified to drive taxis in Tasmania.

Perpetual taxi licences	397
Special Purpose Cabs (small vehicles) – licensed separately to perpetual taxis	17
Taxi drivers	1300

It has generally be considered that the average taxi fare in Tasmania is a 4.3 km trip costing \$7.47 (including waiting time). Table 2 provides a comparison of taxi fares by State and Territory and shows that taxi fares in Tasmania are around the median level. It should be noted that this is despite the fact that the value of a taxi licence in most mainland areas is substantially higher than in Tasmania. A discussion on the relationship between licence values and fares is presented in section 6.2.2.

The 1998 review of taxi fares in Tasmania found that for Hobart the average hirings per hour is 1.8 trips and the average fare is \$8.01. Based on this information the review found that on average a Hobart driver receives about \$7.20 per hour. Drivers currently tend to receive 50% of fare box revenue; although, this is not a regulated arrangement. The driver's share of farebox revenues has increased significantly over time from 33% before 1975, to 40% in 1978, 45% in 1982 and finally to 50% in about 1989.

	Tariff 1 (Normal business hours)	Tariff 2 (Nights, weekends, public holidays)
New South Wales	\$7.85	\$7.85
Victoria	\$7.40	\$8.40
Queensland	\$6.86	\$7.96
South Australia	\$6.80	\$9.45
Western Australia	\$7.50	\$8.60
Tasmania	\$7.39	\$8.38
Australian Capital Territory	\$7.77	\$8.52
Northern Territory (Darwin)	\$6.25	\$6.25

Note: the above fares are based on a five kilometre taxi fare, no detention time, and no telephone booking fee as at 1998.

Source: 1998 Review of Standard Fares – Report prepared for the Taxi Industry Advisory Board

An estimated return to licence holders from the combination of capital growth and income returns in some taxi areas is about 11-12%. The value of taxi licences has increased steadily through the years. It

should be noted that the value of taxi licences varies considerably across the 19 taxi areas in Tasmania. Further information relating to Tasmania's taxi market and key socio-economic indicators is provided at Appendix B.

The Commonwealth's *Disability Discrimination Act 1992* places the onus on the taxi industry to supply services that are accessible to all members of the community, including those restricted to wheelchairs. It has been estimated that about 10% of the taxi fleet would need to comprise multi-purpose taxi vehicles that are accessible to persons in wheelchairs for an equivalent level of service to be achieved.

At present, wheelchair accessible taxi services in Tasmania are primarily provided by vehicles known as 'Special Purpose Cabs'. These are not genuine taxis and are limited to only carrying persons restricted to wheelchairs and their carers. There is only one genuine multipurpose taxi in Tasmania, which operates in Hobart. This situation is not consistent with the requirements of the *Disability Discrimination Act*.

In other States a separate form of taxi licence has been issued requiring a suitable vehicle to be used for the disabled and offered at a discount to the traditional taxi licence. The *Taxi Industry Act* does not have any special categories of licence at present.

In summary the Review Group believes that, based on public consultation and the evidence available, the key aspects of the market and the Tasmanian economy that impact on the industry include:

- static demand and little scope for increase in main factors that increase demand. It is felt that the low level of demand in the taxi market reflects Tasmania's marginally declining population and the relative under performance of the State's economy. Evidence from respondents to the Review indicated that regional areas, in particular, were experiencing the effects of the closure of industries and changing use patterns which have been resulting in lower levels of demand;
- adequate supply to meet demand and low waiting times. The responses in written submissions and at public hearings suggested that there are sufficient taxis to adequately meet demand at all times other than for New Year's Eve etc. The Review Group noted that there appears to be little demand for taxi licences, other than perhaps in Hobart, which indicates taxis are not in short supply; and
- lack of significant peak periods compared with interstate and overseas markets.

This has led to an industry that is responsive to meeting that demand for taxi services. The Review Group found that, in general, users had a high level of satisfaction with the taxi services in Tasmania. However, it is also apparent that this situation has led to low driver wages, which in turn has required drivers to accept long working hours in order to make reasonable returns.

The Review Group believes the outcomes of regulatory reform observed in other countries should be interpreted cautiously when considering the possible benefits that may arise in Tasmania from similar changes. Importantly, the Group considers that Tasmania's taxi industry differs in respect to a number of key aspects from the large urban markets typically considered in overseas studies of taxi industry reform. These key differences include:

- overall, Tasmania's taxi market is more appropriately described as a regional/semi urban market;
- even the more urban Tasmanian taxi areas do not have same demand pressures as those in the larger interstate and overseas markets; and

- the benefits experienced in New Zealand, in particular the increase in number of taxis, were facilitated by the growth in the economy that coincided with the deregulation of the taxicab industry.

3.3 The luxury hire car industry

3.3.1 History of regulation

Under the public vehicle licensing system that has applied to date, hire cars have been closely regulated so as to maintain a distinction with taxis. Conditions imposed on luxury hire cars to maintain this distinction have included:

- a minimum fare of twice the standard hourly taxi detention rate (sometimes more) – this is equivalent to a charge of \$40 per hour;
- a minimum hire period of one hour; and
- luxury hire cars only able to do pre-booked work (no rank hire, no hailing and no standing for hire in public streets).

As outlined above, the taxi and luxury hire car industries arose out of the same industry. Presently, luxury hire cars are licensed as public vehicles under the *Traffic Act 1925*. Under the *Traffic Act*, luxury hire cars are intended to be a premium quality personal vehicle hire service. In November 1999 Parliament passed the *Taxi and Luxury Hire Car Reforms Act 1999*. This Review has based its analysis on the restrictions contained in that Act (which is expected to commence in May 2000) and not those that currently regulate hire vehicles under the *Traffic Act*.

The essential features of the new legislation are that:

- luxury hire cars will need to be licensed under an amended *Taxi Industry Act 1995*;
- licences will be Statewide and available in unlimited number at \$5,000 each;
- there will be no minimum or maximum fare controls;
- luxury hire cars will not be able to ply for hire in a public street, including standing for hire or being hailed;
- luxury hire cars will only be able to undertake pre-booked work; and
- luxury hire cars are to have no external distinguishing features and are to be of a premium quality by comparison to standard taxis. This will include strict maximum age limits for lesser standard luxury hire cars.

Under the *Traffic Act*, luxury hire cars are able to carry passengers “to, from or within” one of three larger traffic areas, based essentially on the telephone districts. The vehicle is to be a premium quality vehicle by comparison to standard taxis. This is defined as a Ford LTD or better, with the Department applying its discretion as to the maximum ages of vehicles, although a general policy of a maximum age of 10 years for luxury hire cars is stated.

3.3.2 Current situation and trends

The luxury hire car industry now comprises 15 operators with 30 licences and 13 vehicles in Hobart (the 62 telephone area), 13 based in and around Launceston (the 63 telephone area) and 4 on the North West Coast (the 64 telephone area).

A less restrictive regulatory environment is expected to lead to an increase in competition between taxis and luxury hire cars as a result of the changes to the luxury hire car regulations outlined above. The public consultation process for this review reinforced this view where it was clear that the taxi industry believes that the changes will lead to greater competition between the two industries.

An important factor in the distinction between the two markets will be the quality of the vehicle. Under the luxury hire car legislation a series of makes and models of vehicle are identified as suitable luxury vehicles. These vehicles are placed into a number of categories, and fixed maximum ages are specified for each category. Luxury hire cars will only be able to continue to operate beyond these maximum age limits if they do not operate in the urban areas of Hobart, Burnie, Devonport or Launceston.

3.4 Other legislation governing taxis and luxury hire cars

In addition to the *Taxi Industry Act 1995* and the amendments in relation to luxury hire cars, there are other pieces of legislation that relate to the regulation of the taxi and hire car industries. These are outlined below. Although the Terms of Reference do not specifically require the Review Group to consider these pieces of legislation, the Review Group considered that it was important to at least consider all the regulatory provisions restricting competition in the taxi industry.

When the *Taxi Industry Act 1995* was established a process was commenced to convert taxis operating under public vehicle 'cab' licences to taxis having perpetual taxi licences under the *Taxi Industry Act*.

Whilst new primary and subordinate legislation was set up to govern taxis, a range of operational controls remained in the *Traffic (Public Vehicle) Regulations*. The intention has always been to transfer these remaining regulatory provisions relating to taxis to the *Taxi Industry Regulations* once the *Traffic (Public Vehicle) Regulations* were abolished as part of the public vehicle licensing reform process. Some provisions remaining in the *Traffic (Public Vehicle) Regulations* duplicated provisions in the *Taxi Industry Regulations* because one set of regulations related to vehicles licensed as 'cabs' (public vehicles) whilst the other set related to vehicles licensed as taxis under the *Taxi Industry Act*.

In addition there are provisions in the *Traffic (Miscellaneous) Regulations* relating to the certification of drivers and the inspection of vehicles.

The following table identifies the broad restrictions as identified in the Discussion Paper that are covered by this additional legislation, the specific nature of the restrictions and the recommendations.

Restriction	Nature of the restriction	Paper's Recommendations
Operating conduct	<ol style="list-style-type: none"> 1. A taxi driver cannot refuse the carrying out of a hiring they have agreed to take. 2. Control over taxi operations, ie not standing for hire in public streets other than at ranks. 3. A taxi driver is required to travel by the most direct route or the 	<ol style="list-style-type: none"> 1. This restriction will continue to apply 2. This restriction will continue to apply. 3. This restriction will continue to apply.

Restriction	Nature of the restriction	Paper's Recommendations
	passenger's defined route.	
Minimum vehicle standards	For a vehicle to be used as a taxi it must pass regular inspections.	This requirement will be retained.
Fares and tariff times	Provides for fare agreements (fares outside the fare schedule) to be approved by the Transport Commission	Recommended that fare contracts do not need to be approved by the Transport Commission
Driver certification	Drivers of taxis and luxury hire cars need to have a licensed passenger vehicle certificate	This restriction will continue to apply.

4 Intent and objectives

4.1 Introduction

This section of the RIS reviews the objectives of the legislation as identified and evaluates the appropriateness of these objectives. This is the first step in the analytical process set out in Figure 1.

The Review Group has defined a high level intent of the legislation, with associated supporting objectives. This differs from the approach taken in the current legislation where 6 objectives are identified, but is considered by the Review Group to be more appropriate.

The outcomes of the community consultation process in relation to these objectives are then discussed, emphasising any issues identified by the public as important elements to be taken into account.

4.2 The *Taxi Industry Act 1995*

4.2.1 Intent and objectives

The intent of the Act is defined as:

To ensure the provision of a safe, demand responsive, supplementary public transport system in all areas of Tasmania that adequately meets the needs of various groups in the community in an orderly and commercially viable manner.

The Review Group has identified that the objectives of the legislation are as follows:

Objectives	Reasons
1. Ensure safe operating conditions for passengers and drivers.	Safety standards exist to ensure that passengers are able to travel in a safe taxi driven by a driver who is appropriately qualified and does not pose a threat. Similarly drivers are entitled to a safe working environment.
2. Ensure appropriate minimum quality standards in the taxi industry.	Quality standards relate generally to drivers and vehicles. They are provided to ensure consumers have a service that meets certain standards as a minimum.
3. Ensure the availability of adequate standard taxi services at reasonable prices.	Taxi areas and the control of taxi numbers in each area is designed to achieve the availability of taxis throughout Tasmania. A fixed fare structure guarantees customers a known fare scale and protects them from exploitation.
4. Enable variation in taxi services to meet community demands at prices determined by market forces.	Accreditation is a means to promote greater industry involvement in controlling how the industry operates in particular by setting fares and developing clear market identity.

4.2.2 Discussion

The feedback from public consultation indicated there was general support for the provisional intent and objectives of the legislation as identified by the Review Group. A number of respondents suggested that additional objectives of the legislation should be:

- to ensure an adequate economic return to drivers and investors;
- that taxi services be provided in orderly manner; and
- that the taxi industry is to provide a 24 hour public transport service.

In the light of this feedback, in particular to the Discussion Paper, the Review Group amended the intent of the Act to include a reference to taxi services being provided in an orderly manner. The Review Group considered that the revised statement of intent adequately covered the other issues raised.

4.3 Luxury hire cars

4.3.1 Intent and objectives

The Review Group considers that the intent of the legislative amendments in relation to luxury hire cars is:

To ensure the provision of a safe, high quality, personal hire transport system.

The Review Group believes the objectives of the legislation are as follows:

Objectives	Reasons
1. Ensure safe operating conditions for passenger and drivers.	Similar to the taxi industry, safety standards exist to ensure that passengers are able to travel in a safe vehicle by a driver who is appropriately qualified and does not pose a threat. Similarly drivers are entitled to a safe working environment.
2. Ensure appropriate minimum quality standards in the luxury hire car industry at a premium to standard taxis.	Quality standards relate generally to drivers and vehicles. By definition, the luxury hire car industry must provide a high standard of quality.
3. Clarify the respective roles of taxis and luxury hire cars.	To prevent the operators of luxury hire cars from undermining the effectiveness of the <i>Taxi Industry Act</i> .

4.3.2 Discussion

In general, respondents to the Review agreed with the intent and objectives identified by the Review Group of the legislation to control the luxury hire legislation. However a number of respondents believed that the objectives of the legislation should be strengthened in respect of preventing luxury hire cars undermining the taxi industry. The Review Group considered that Objective 3 as defined adequately addressed these concerns and that it is not in the public benefit to impose restrictions on the luxury hire car industry such that there is no effective competition between the taxi industry and the luxury hire car industry.

4.4 Conclusions

The Review Group recommends that the intent and objectives of the *Taxi Industry Act 1995* as modified on the basis of consultations should replace the existing objectives specified in the *Taxi Industry Act 1995*.

The Review Group has reviewed the intent and objectives of the luxury hire car legislation, and on the basis of consultations and analysis, concluded that the intent and objectives as stated in this section, are appropriate.

5 Restrictions on competition contained in the Act and whether they meet the objectives of the Act

5.1 Introduction

This section of the RIS evaluates each restriction on competition to determine whether that restriction is necessary to achieve one or more of the objectives and whether it effectively addresses the objective, in accordance with Step 3 of the analytical approach, shown in Figure 1. If a restriction cannot be justified in terms of addressing an objective of the legislation it is recommended that it be removed.

The following table identifies the legislative restrictions, comments on whether they are assessed as addressing the objectives of the legislation and identifies issues that the Review Group consider require further analysis.

5.2 Taxi industry

Restriction	Addresses objective?	Issues
Licensing	Yes	Licensing provides a means to control the industry and, as such, provides a mechanism to achieve safety (Objective 1), quality (Objective 2) and availability (Objective 3).
Licence types	Yes	Perpetual licences assist in achieving availability of taxi services (Objective 3) especially in regional areas. Perpetual licences, however, do not impose conditions specifying how the taxi is to be utilised ie availability, hours of use per week, sanctions for misuse etc. In rural/regional areas this can mean that services are not provided even though the number of licences issued may be sufficient.
Price & Number of Licences Issues	Yes	Controlling the number of taxis does not address any specific objective; however, in so far as it helps to achieve a viable industry it can be seen to indirectly assist in safety (Objective 1), quality (Objective 2) and availability (Objective 3). The mechanism for releasing new licences, the capped value, limits the ability for new entrants to enter the industry in a contracting market.
New Licence/New Vehicle	No	The Review Group considers that this restriction does not address any of the objectives in the Act.
Taxi Areas	Yes	This restriction provides a means of providing for the availability of taxis in regional areas (Objectives 3). However, areas restrict taxis from freely moving to places of high demand ie special events, News Year's Eve, the arrival of cruise ships. Taxi areas ensure there are licences available but there are no requirements on taxi availability in terms of operating times.
Fares/Tariff Times	Yes	Fare regulation ensures that customers are provided with a known fare scale and protects customer from possible exploitation (Objective 3). To a lesser extent it assists in achieving safety and quality standards (Objective 1 & 2). However, this is achieved by the imposition of maximum fares. The current controls provide for absolute fares and do not provide for free negotiation or negotiation below a maximum. As noted above, there is

Restriction	Addresses objective?	Issues
		scope for taxi companies to develop alternative fare structure with large users, subject to the approval of the Transport Commission.
Standards for Drivers	Yes	Prescribing standards for drivers assists in safety (Objective 1), quality (Objective 2) and, to a lesser extent, availability of taxi services (Objective 3).
Freight	No	Objectives of the legislation could be met without this restriction. Safety issues ie Occupational, Health & Safety are controlled under other legislation.
Minimum Vehicle Standards	Yes	Regulating vehicle standards assists in ensuring taxis are of an acceptable level of safety (Objective 1) and quality (Objective 2). Issues of quality are subjective in nature ie body repair, interior etc. Also, is vehicle age an appropriate measure of quality? The ability to measure quality is also an issue with regard to the inspection process - frequency, consistency between inspectors and technical issues.
Operating Conduct of Drivers	Yes	Controlling the operating conduct of the drivers helps to achieve quality standards (Objective 2) and orderly conduct.

5.3 Luxury hire car industry

Restriction	Addresses objective?	Issues
Licensing	Yes	Licensing provides a means to control the industry and as such provides a mechanism to achieve safety (Objective 1), and quality (Objective 2).
Licence Price	Yes	Imposing a \$5,000 licence fee will assist in differentiating LHCs and taxis (Objective 3). However, the quantum of the licence is unlikely to be a significant barrier to entry.
Accreditation	Yes	Accreditation provides a mechanism to achieve minimum quality standards (Objective 3).
Minimum Vehicle Standards	Yes	Ensuring LHCs meet minimum standards helps to achieve quality objectives (Objective 2) as well as assisting in differentiating LHCs and taxis (Objective 3).
Maximum Age	Yes	Prescribing maximum age of LHCs promotes quality (Objective 2) and differentiates LHCs and taxis (Objective 3).
Operating Conduct of Drivers	Yes	Regulating the LHC driver conduct assist in differentiating LHCs and taxis (Objective 3).
Standards for Drivers	Yes	Prescribing standards for assists in safety (Objective 1) and quality (Objective 2).

5.4 Discussion

The Review Group considers that the restrictions on competition in relation to the 50 kilogram unaccompanied freight limit and the requirement for a new vehicle for a new taxi licence did not address the objectives of the legislation. There was some support throughout the consultations for the retention of the restriction regarding the carriage of unaccompanied freight, on the basis that such a restriction is required to protect driver safety. However, it appeared that respondents were concerned about heavy freight items rather than the provision restricting the carriage of a number of lightweight items with a combined weight of more than 50 kilograms.

The Review Group concluded that this restriction should be removed because of the inequity it imposes between taxis and luxury hire cars, which do not face the same restriction. The safe handling and carriage of unaccompanied freight and, similarly, passenger luggage is more appropriately controlled by legislation governing occupational health and safety.

The Review Group considered it was inequitable that a person buying a taxi licence on the open market could use a second-hand vehicle, while a person wishing to purchase a new taxi licence from the Government would be required to provide a new vehicle. There was some support for the retention of this restriction in a number of written submissions and at the public hearings. It was argued that it ensures new entrants are committed to the industry, through the additional costs associated with supplying a new vehicle, and it helps to improve the overall quality of the taxi fleet. The Review Group did not consider that it was in the overall public interest to retain this restriction.

5.5 Conclusion

The Review Group has concluded the following restrictions be removed on the basis they do not address the objectives of the legislation:

- **the legislative provision relating to the requirement to carry no more than 50 kilograms of unaccompanied freight; and**
- **the requirement to use a new vehicle with a licence issued by the Transport Commission.**

All remaining restrictions are believed to address the objectives of the legislation and must therefore be subject to the next step of the analytical approach, as detailed in the next section.

6 Analysis of the remaining restrictions on competition in the *Taxi Industry Act 1995*

6.1 Introduction

This section of the RIS evaluates the costs and benefits of each restriction on competition contained in the *Taxi Industry Act 1995*, in accordance with Step 4 of the analytical approach to the review, shown in Figure 1. Since all restrictions that do not address the objectives of the legislation have been identified and 'sifted out' in section 5, it can be taken that the restrictions evaluated in this section address the objectives of the legislation.

In this section, the Review Group considers the costs and benefits of each restriction from the perspective of industry, users and government/public.

Where the costs outweigh the benefits of a restriction the Review Group recommends the removal of the provision. In cases where the benefits outweigh the costs of a restriction, then less restrictive alternatives of achieving the objective of the restriction are considered in accordance with Step 5 of the analytical approach to the review.

The restrictions to competition to be considered in this section include:

- licensing, licence type and price & number of licences issued;
- taxi areas;
- areas/tariff times;
- standards for drivers;
- minimum vehicle standards; and
- operating conduct of drivers.

Each of these will now be discussed in turn.

6.2 Licensing, including licence type, price and number

6.2.1 The restriction

In Tasmania, a perpetual taxi licence is required in order to operate a vehicle as a taxi. Licensing acts as a barrier to entry since the number of new licences issued is strictly controlled. In Tasmania there are open perpetual taxi licences and temporary licences issued to accredited taxi groups that can be to meet peak demands.

The *Taxi Industry Act* defines the potential issue price for new licences (the capped value). The Act also contains a formula for making new licences available for sale:

- if the market price is less than the capped value in a taxi area, the Transport Commission may specify a limited number of licences to be made available for sale at the capped value; and

- if the market price in a taxi area is above the capped value, the Transport Commission may make available an unlimited number of licences.

The Transport Commission has until recently exercised its discretion to not make taxi licences available for sale. In May/June 1999 the Transport Commission made a limited number of licences available for purchase in all areas of the State except Hobart, Launceston, Devonport and Burnie. As yet no licences have been issued through this process.

6.2.2 Discussion of costs and benefits

All other Australian States and Territories, together with most countries around the world, license taxis. In Tasmania, the Government provides a licence to operate a vehicle. A perpetual taxi license entitles the owner of the licence to operate a vehicle as a taxi to, from and within a prescribed area. Regulations govern the operation of the licensed vehicle including the driver, the age of the vehicle and its operation.

Empirical and anecdotal evidence suggests that Tasmania has an adequate supply of standard taxis, with minor exceptions being New Year's Eve and the visits of cruise ships to Hobart. Barring these occasions, customers are generally well serviced, with response times being better than all other jurisdictions. The adequate supply of taxis in Tasmania, compared to other jurisdictions, is also reflected in the lower values for taxi licences in Tasmania. Industry representatives at the public hearings also indicated there is significant 'dead' time per shift. This creates good response times for customers but contributes to relatively low driver income, which has been estimated to average around \$7.20 per hour.

The response from the public consultation process indicated that taxi operators strongly supported continued licensing on a perpetual basis. The arguments advanced by the industry in support of the current licensing regime are:

- perpetual licences attract 'long-term players' into the industry and prevent 'fly-by-nighters' from having a detrimental impact on the industry. Operators argued that the quality of the taxi industry impacts on other industries, such as tourism;
- licences have historically appreciated in value in real terms due to their scarcity: a number of owner/ operators and investors had entered the industry on a long term basis, as an investment that may be capable of being realised at some point in the future, perhaps to fund retirement. However, the current provisions for the issue of new licences in the *Taxi Industry Act*, if operated as originally intended, would reduce the likelihood of further growth in licence values; and
- licensing provides a means to reinforce orderly behaviour by operators. However, breaches of the taxi licence conditions or *Taxi Industry Act* by licence holders cannot result in a suspension or revocation of the licence. For this reason, the Review Group considers that the existence of a licensing regime cannot be justified simply on its capacity to ensure compliance with the Act.

The Review Group considers that the major benefits of the current licensing regime are:

- users receive assurance that a licensed operator will provide acceptable standards of service and safety, thus giving customers confidence in using these services;
- for reasons set out below, entry restrictions can lead to higher vehicle utilisation and, hence, potentially lower taxi fleet costs;

- entry restriction may promote driver safety if drivers choose to not work very long hours because of the relatively high hourly rate of pay, compared with the hourly rate if there were no licensing; and
- the perpetual licence regime may promote high standards and investment in the industry.

The Review Group found the major costs of the current licensing regime are:

- requiring a licence for entry into the taxi industry increases the costs of starting a taxi business, which impacts on the viability of the operation. Licences are tradeable on the open market, and have a value due to their scarcity. Licence values vary across the State, from around \$90,000 in Hobart to around \$1,500 in smaller, rural taxi areas;
- the significant entry costs for new entrants into the industry may prevent some more efficient operators from entering the market;
- on some occasions, waiting times may be longer than under an unrestricted regime; and
- the significant investment licence holders make in the industry on entry also restricts exit from the industry.

It is considered that an unregulated increase in the number of taxis in the State could contribute to a lessening of standards in vehicles, drivers and quality of service for customers; necessitating increased diligence through inspection and enforcement.

The Review Group notes that there is an ongoing discussion on the issue of whether the value of a licence is reflected in the fare charged by taxis. Specifically, it is often claimed that if licence values increase this will lead to higher fares for customers. For example, the most recent Productivity Commission Research Paper² on the taxi industry concludes that licence values contribute to inflated fares to customers.

It has been pointed out, in support of this assertion, that in regions where licence values are high those who lease a taxi plate make significant weekly payments, which may be up to \$500, which have to be recovered through fare revenue. This, it is argued, is reflected in the fares set by these taxi operators, which are higher than they would be if lease rates were lower.

The Review Group does not accept this causality, both on economic theory grounds and in the context of the way taxi fares are set in Tasmania.

The value of a taxi licence is principally determined by the present value of the future profits that licence will provide to the owner, together with expectations of future licence prices³. In this respect, it is no different from the share value of a company. When conditions are, or are expected to be, more favourable, licence prices can be expected to increase and, similarly, they can be expected to fall when market conditions are less favourable.

An increase in real licence prices will arise if demand increases and taxis are more fully utilised, provided that the licence owner retains part of the revenue increase. This will occur if fare levels (in real terms) are relatively unchanged (as has been the case in most mainland States) or even if fares decline in real terms, provided the decline is not sufficient to outweigh the demand increase.

² Productivity Commission 1999, Regulation of the Taxi Industry, Ausinfo, Canberra.

³ In areas of high unemployment, the purchase of a taxi licence may be seen as the purchase of a secure job, even if returns are low, and this security value may also be reflected in the licence price.

Therefore, just as an increase in a company's share value does not lead to an increase in the price of its goods, an increase in taxi licence values will not lead to higher fares. Indeed, the causality is reversed, other things being equal an increase in the fare level will lead to higher licence values, just as an increase in gold prices tends to lead to higher share values for gold producing companies.

In regions of Australia where licence prices are high, leasees are prepared to pay high weekly lease rates because of the favourable market conditions. In other words, if they are prepared to allocate, say, \$3 per fare to cover the lease costs it is because of the large number of fares that they can expect to obtain per shift. If leases were lower, there is no reason why, with all else the same, these lower lease costs would be passed on as lower fares.

Unlike most mainland States and Territories, the fares set by the Transport Commission are not maximum fares but the exact fares that taxis must charge. Outside the formal accreditation arrangements, there is no provision for taxi owners or operators to charge a different fare.

Tasmanian taxi fares are set through regulation by the Transport Commission on application by Taxi Industry Association of Tasmania. The Commission uses a modified cost model to determine fare increases. The model takes into account fixed costs, such as insurance, lease of vehicle, radio room fees, variable costs – fuel etc, and labour (driver) costs. A return on investment in the licence is not factored into the model as the Commission considers that this is a sunk cost and will be recovered by the owners when they sell the licence. A search of records at the Department has found that at no time was the base fare set to include a return on the licence price. This is consistent with the fact that across mainland Tasmania fares are identical yet licence prices range from \$1,500 to over \$90,000.

In Tasmania, therefore, there is no mechanism whereby an increase in the licence price would result in higher fares.

The Review Group does accept, however, that other things being equal restricting licences would result in fare levels being higher than they would be under a regime that permitted more entry although there are well documented cases both in New Zealand and the USA where fares have risen post-deregulation. Furthermore, it is also likely that the higher the licence price, the greater the fall in fares if entry became unrestricted. An increase in taxi operators would lead to less use per taxi, probably lower fares and a decline in taxi licence values. With no entry restrictions, taxi licences (should they still be issued) may have no value in exchange.

The Review Group is concerned, however, that the success of deregulation in semi urban and rural areas has been mixed. In New Zealand, for example, it was found that there was little real price reduction in medium sized cities and towns, and real price increases in the smallest towns studied. Given the large number of rural taxi areas in Tasmania, the Review Group is keen to prevent similar outcomes occurring in Tasmania.

Furthermore, it should be noted that one impact of restricting entry is that some industry costs are constrained, such as the cost of maintaining the vehicle fleet, and utilisation of taxis is higher than it would otherwise be. Once entry becomes unrestricted, each taxi's fixed costs will be spread over fewer fares per shift. Therefore to be viable in the long run, a greater dollar amount than before will be required from each fare to recover these fixed costs. Alternatively expressed, the total industry costs will increase as new taxis enter the industry and in the long run the fares charged to customers will have to recover these costs.

The Review Group considers that, on balance, in regions where licence prices are high, unrestricted entry would lead to an overall decline in fares as the downward pressure from the increased supply would outweigh the cost pressures described above.

However, this reasoning shows that if, in any region, entry were unrestricted it is not correct to assume that the entire value of the licence would be returned to customers in lower prices. Part of this value would be absorbed by the additional industry costs. In areas of high unemployment, some of the value loss may be attributed to a perception of the loss of secure employment in that industry.

In regions where the supply of taxis at peak periods is insufficient, one of the major benefits of increased entry is the savings in customer waiting time. However, in other regions, such as Tasmania, this benefit would not be significant as waiting times are reported to be very short throughout the State.

The Review Group considers that given the taxi industry generally is assessed as performing well in the State, the key outcomes of taxi reform in Tasmania are to promote competition in the setting of taxi fares and the provision of services. While an alternative licensing regime may be one way of obtaining this outcome, the Review Group considers that the preferred approach at the outset is to allow some increase in licence numbers, in conjunction with permitting much greater competition in the setting of fares.

According to the industry, in all the areas, taxis can expect to be idle for a substantial amount of the average shift. This implies that the opportunity cost of accepting a low price fare during these idle periods is very low, which should lead to some fare discounting. The Review Group would therefore expect to see competition over the level of fares if the Government accepts these recommendations.

It is noted that explicit fare discounting is almost unknown in those mainland States that permit it but also that, at least in the urban areas, taxi utilisation is higher and waiting times are longer, factors that discourage fare competition.

It should also be noted that Tasmania has one of the most unrestricted luxury hire car markets of all Australian jurisdictions. The Review Group anticipates that the taxi industry will face more competitive pressures in some market segments than it has in the past, some which has recently been evident at Hobart Airport.

The Review Group believes that two years after the implementation of the recommendations of this Review, a Working Party should undertake a review of the performance of the new legislation, in particular whether there has been effective price and service competition in the provision of taxi services.

The Review Group considers that, at the outset, the potential for the existing licensing regime to provide price and service competition should be assessed before considering major changes to the regime. Given the higher use per taxi that arises from restricting entry, the Government should examine whether the taxi industry is able to transfer part of industry's benefit from these entry restrictions into lower fares and improved services once increased competition is permitted.

The Review Group concludes that, at this stage, there is a net public benefit from retaining some restrictions on entry to the taxi industry as part of the licensing regime. However, there is a need to resolve the process for making new licences available for issue.

6.2.3 Less restrictive alternatives

6.2.3.1 Annual licensing

The Review Group considered the issue of replacing perpetual licences with annual licences, such as under the Northern Territory model or that recommended by the Review in Western Australia. This model would allow for unrestricted entry, providing safety and quality requirements are met.

The Review Group considered but discounted this option at this stage on the basis that:

- in the urban areas, it would take between 10 and 15 years for the Government to recover the funds needed to compensate the current licence holders, if the annual lease were at the current market rate. Therefore the benefits of cheaper entry into the industry would only arise after this period;
- one major benefit of leasing is to attract significantly more taxis into the industry (as occurred in the Northern Territory). This is not considered an important benefit in Tasmania, given the current supply and demand balance as there may be little benefit to customers in terms of reduced waiting times;
- such a change would lose one of the major benefits of perpetual licensing, which is the ability to attract long-term players into the industry; and
- given the productivity benefits of restricting entry, the capacity of the existing licensing regime, modified as proposed, to provide competition on fares and service levels should be assessed before moving to an alternative system, such as annual licences.

The Review Group considers that less restrictive alternative of annual licensing with no constraint on the number of licences issued should not be adopted in Tasmania at this stage.

6.2.3.2 Licence types

The Review Group concluded that there was a need to supplement the existing open perpetual licences and temporary licences, with special licences for multipurpose taxis. This issue is discussed further in sections 6.2.4.2 and 6.2.4.3.

6.2.3.3 Price versus other mechanisms to trigger the release of licences

The Review Group noted that in general, the taxi industry is dissatisfied with the 'capped value' as a mechanism for the release of licences into the market. A number of difficulties with the 'capped value' model have been identified, such as:

- the discretion given to the Transport Commission in releasing new licences where the market price is above the capped value; and
- the inability to adjust the 'capped value' to reflect market conditions such as inflation.

The Review Group considered alternative criteria for issuing additional licences. However, the Review Group concluded that the 'capped value' model ultimately offers the best mechanism to allow the market to have a role in determining licence numbers. The model assumes that the market value of a licence reflects the market's expectation of the earning power of that licence together with expectation of capital growth in licence value. Other models require the adoption of a less direct indicator as a

means to assess the demand for taxi licences. There are many components affecting the demand for taxi licences, and they are likely to vary from area to area.

However, the Review Group considers that current 'capped value' model needs to be amended to ensure that licences must be issued where market demand for licences is strong. Under the current approach it is not always possible to determine the market value of a taxi licence and therefore whether new licences should be issued. This can occur where a licence is sold as part of a business. Further it can be difficult to determine the market value of licences in areas where they are not traded regularly.

In this regard, the Review Group recommends that each year new licences should be made available at the appropriate price. The Review Group notes that for some, and possibly all, taxi areas the price currently set under the 'capped value' model in the *Taxi Industry Act* may not reflect the current market value.

Therefore, the Review Group recommends that the Valuer-General should be asked to determine the market value at 1 July 2000, excluding the value of 'goodwill' in a licence associated with membership of a radio room of licences, in all areas. This value becomes the assessed market value for the purpose of pricing new licences. This value could therefore be greater or less than the prevailing capped values.

To promote entry into the taxi industry over the medium and longer term, it is recommended that the assessed market value is not indexed according to inflation but instead be subject to a triennial review. This is again designed to ensure that the assessed market value for the purpose of issuing new licences is in line with the prevailing market value.

To avoid problems within the industry that may occur from an influx of new entrants the number of new licences to be made available in any one taxi area should not exceed 5 per cent of the number of total licences, or one, whichever is the greater.

The Review Group considers that a tender process would be the most effective mechanism to issue new licences in each area. It was considered that this should normally occur on an annual basis once the assessed market value has been indexed for each area. Furthermore, the average tender price would itself provide a clear indicator as to the demand for licences. If the average tender price is significantly higher (10 per cent) than the assessed market value and all the licences are sold, additional licences for that area (again on a tender basis equal to 5 per cent or 1 licence whichever is the greater) should be made available before the next annual tender would be due. Again, the minimum tender price will be the assessed market value for that area.

Any licence not sold at tender would remain available for sale at the assessed market value on application to the Transport Commission until the next annual tender.

The Review Group considers that the revenue from the sale of licences should be used for safety initiatives and ongoing programs to improve the taxi industry.

In areas where there is competition between radio rooms, any new licensees are likely to be able to join one of these organisations. However, in an area where there is a single radio room, that radio room can effectively prevent new entrants into the industry in that area by making it clear that new licensees will not be permitted to join the radio room. This would make entry more difficult because fares from telephone bookings account for more than half the total fares of most taxis. Similarly, if new licensees were accepted but were not given their fair allocation of work from the radio room this would also discriminate against the new entrant. Such actions would clearly defeat the purpose of the reforms.

For this reason, the Review Group recommends that the valuation of a licence in each area should not include any value or goodwill associated with involvement with a radio room. In cases where the radio room charges periodically on a fully commercial basis for its services it is not expected that the licence value would include this goodwill.

However the radio room charges may not be explicit, such as in cases where all the taxi licensees in an area are involved in the radio room, such as on a cooperative basis, or where a single firm owns all the licences and the radio room. Here, the value of a licence may include a component of goodwill associated with the radio room. Provided new licences are issued by the Transport Commission at a price that does not include this goodwill, it is not expected that the prevailing radio room arrangements would act as an entry barrier.

The Review Group notes that radio rooms contribute to the efficiency of the industry through their role in connecting customers and taxis. It is expected that the emergence of new communication technology will continue to enhance this service. Radio rooms also contribute to quality of service through the standards they require of vehicles and drivers. Because of their special position in the taxi market, the Review Group consider that radio rooms can play a significant role in delivering benefits of the recommendations of this Review particularly, in regards to competition on prices and quality of service.

The Review Group recommends that a Working Party review the role of radio rooms and their capacity to promote competition in both fares and services, following the implementation of the reforms recommended in this review. It is also recommended that Working Party examine whether radio rooms can improve their capacity to respond to and adopt innovative practices and new technologies.

6.2.4 Other issues

6.2.4.1 Conflict between taxi and luxury hire car legislation

The highly regulated environment for the taxi industry at present differs from the level of regulation that will apply in the luxury hire car industry. For example, entry into the taxi industry is restricted to those who purchase a licence on the open market or purchase a new licence from the Government. No new licences have been issued by the Transport Commission since the inception of the Act; although, some have been made available outside the main metropolitan areas. Licences currently trade in Hobart for around \$90,000, whereas the luxury hire car licences will be available in unrestricted numbers for a one-off fee of \$5,000 per licence.

In addition, taxis are currently required to charge the metered fare, while luxury hire cars will have no fare restrictions, although this is discussed in more detail in section 6.4. There is a major concern in the taxi industry that the legislation for luxury hire cars will result in an undermining of the taxi industry as hire cars will have increasing access to markets historically served by taxis. This is a particular concern with the increasing use of mobile phones. In this regard, the taxi industry supports increased regulation of the luxury hire car industry.

6.2.4.2 Multipurpose taxis

For passengers using accessible or multi-purpose style taxis, service levels are not as good. Phone surveys of some users of accessible taxis indicated that there were significant shortages and that it was virtually impossible to hire an accessible taxi on demand. In most cases, these taxis need to be pre-booked. As noted above, the Commonwealth's *Disability Discrimination Act 1992* (DDA) places

the onus on the taxi industry to supply services that are accessible to all members of the community, including those restricted to wheelchairs

In other States a separate form of taxi licence has been issued requiring a suitable vehicle to be used and offered at a discount to the traditional taxi licence. The *Taxi Industry Act* does not have any special categories of licence at present.

The Review Group believes that the legislation should be amended to allow for multipurpose taxis to service people with disabilities and that a Working Party should investigate and develop a proposal to introduce these types of taxis. In considering this matter, the Review Group believes that multipurpose taxi licences could be made available on a lease basis for a defined period of time and for an appropriate fee so as to provide the incentive and certainty to encourage operators to invest in these types of vehicles. Under this approach, the lease would be issued on condition that the leasee is required to meet a number of criteria developed to ensure priority is given to people in wheelchairs. The Review Group believes that an accreditation scheme be established for the operation of multipurpose taxis that covers:

- minimum vehicle quality;
- priority to be given to people in wheelchairs; and
- vehicle availability (ie the vehicle to be available seven days and a minimum number of hours per week).

The Review recommends that the details of the accreditation scheme requires further consideration by a Working Party as part of the process outlined earlier in section 2.3. The Working Party will also need to consider the ongoing status of Special Purpose Cabs as the taxi style work they currently undertake would be replaced by multipurpose taxis.

6.2.4.3 Temporary licences

Temporary licences can be made available for a limited period to meet abnormal peaks such as New Year's Eve or multiple cruise ship visits. In some States (such as New South Wales) the peak periods are sufficiently regular to issue temporary licences that are restricted to certain hours and days of the week on a permanent basis. Under the *Taxi Industry Act* temporary licences can only be issued to accredited bodies and as yet no temporary licences have been issued.

6.2.4.4 New licence-new vehicle

The removal of the restriction to use a new vehicle with a new licence will ensure that new entrants will not be disadvantaged from obtaining a licence from the Transport Commission rather than from the market.

6.2.5 Recommendations

The Review Group recommends that the perpetual licensing system be retained. However after two years, a Working Party should evaluate, for each area, whether there has been effective price and service competition in the provision of taxi services. If the Working Party finds there has not been effective price and service competition, the Working Party should review the merits of perpetual licensing, taking into account experience in other jurisdictions.

The Review Group recommends that a process should be undertaken to review the assessed market value of taxi licences in each area as follows:

- the Valuer-General be asked to review the market value excluding 'goodwill' associated with membership of a radio room as at 1 July 2000 for taxi licences in each area;
- the Valuer-General's valuation as at 1 July 2000 becomes the assessed market value, whether it is more or less than the capped value under the existing legislation; and
- the Valuer-General be asked to review the assessed market value in each area on a triennial basis and following each review the assessed market value for each area be adjusted to the Valuer-General's current valuation.

Upon setting the assessed market value in legislation, the following mechanism for the issue of taxi licences should be adopted to replace the mechanism in the Act:

- the Transport Commission's discretion regarding making new licences available in each area should be removed;
- every year the Transport Commission shall call for tenders for taxi licences in each area and the number of licences made available shall be either five per cent of the number of licences in that area (rounded up or down to the nearest whole number) or one, whichever is the greater;
- for licences to be sold through tender, the minimum tender price would need to be the assessed market value for that area;
- if in an area, the average tender price exceeds the assessed market value by more than 10 per cent and all licences are sold in any area a further tender may be called by the Transport Commission (the number of licences to be made available calculated as above);
- if not, then the next tender will be held the next year; and
- any unsold licences from a tender will remain available for sale by the Transport Commission at the assessed market value through application until the next tender.

The Review Group recommends that a Working Party review the role of radio rooms and their capacity to promote competition in both fares and services, following the implementation of the reforms recommended in this review. It is also recommended that Working Party examine whether radio rooms can improve their capacity to respond to and adopt innovative practices and new technologies.

The Review Group recommends that revenue from the sale of licences should be used for safety initiatives and ongoing programs to improve the taxi industry.

The Review Group recommends that multipurpose taxis should be introduced and that a Working Party consider this matter as a priority.

6.3 Taxi areas

6.3.1 The restriction

Taxi areas restrict the ability for taxis to freely operate across all areas of the State.

6.3.2 Discussion of costs and benefits

The Act divides the State into 19 geographic taxi areas. These areas serve to define where a licensed taxi is able to operate.

The responses from the public consultation process indicated that most taxi operators supported the retention of taxi areas to ensure the provision of services in all areas of the State. However, there were some calls for amalgamation of areas and for removal of the area system altogether.

The Review Group concluded that taxi areas benefit:

- users from the provision of taxi services in all areas of the State. It is believed that unless taxis are restricted to specific areas there is a risk they may operate in the more profitable locations, such as urban centres, at particular times, leaving regional areas with a reduced taxi service;
- industry by providing certainty of demand by preventing taxis from freely moving from one area to another; and
- the public in general, to a lesser degree, as the value of licences outside urban areas are generally low and thus do not impose a significant barrier to entry to the industry in rural areas.

The Review Group considered the main costs imposed by taxi areas are:

- the lack of supply of taxis in peak periods, since operators are prohibited from moving outside their own area to busy areas. However, in evaluating these costs, the Review Group found that in most cases, there is sufficient availability of taxis to adequately meet demand in all areas even at peak times (apart from extraordinary times of high demand). Thus, the cost of preventing the free movement of taxis is not high; and
- compliance costs to the Government, however, the costs are minimal.

The Review Group found that significant benefits flow to industry and users from taxi areas in terms of providing certainty of demand and availability of taxis in all parts of the state. These benefits are provided at minimal costs. The Review Group concluded that taxi areas deliver a net benefit to the public.

6.3.3 Less restrictive alternatives

6.3.3.1 Overlapping taxi areas

It was suggested in the consultations that the taxi area arrangement could be changed to allow 'spill over' at the boundaries of each area. It was claimed this arrangement would benefit users as many rural areas had excess supply that could be utilised in adjoining areas to meet unmet demand.

The Review Group found it difficult to evaluate the costs and benefits of this alternative given the lack of response from other operators and users. Subsequently, advice was sought from the Department where it was found that there had been relatively few complaints about the supply of taxi services in rural areas. In the cases where the Transport Commission had been satisfied there was unmet demand in a rural area, a taxi licence had been made available. It is understood this action had been effective in resolving the problem in these specific cases.

The Review Group identified that the difference in the value of the licences between areas was a barrier to permitting 'spill over'. It was felt that permitting 'spill over' of areas may undermine the objective of ensuring taxis services in all areas of the State as taxis in areas of low demand would seek work in adjoining areas. However, the Group found it difficult to identify costs of removing or amalgamating areas where there is little difference in licence values.

The Review Group found that taxi areas were important in achieving the objective of ensuring the availability of taxi services in all parts of the state. However, while urban areas may be justified, where there is high demand, it was not possible to determine whether the number of rural areas was optimal. The Review Group concedes there is likely to be considerable opposition to amalgamating areas, given the variation in licence values between areas.

However, the Group contends that the market is the best mechanism to determine supply. Thus, if there is currently demand for services in areas, then this will not disappear simply because the area system is removed. Furthermore, given the demography of the State, the Review Group considered that little change would occur from amalgamation of rural areas. The benefits of removing areas are believed to be important as it would provide taxis with greater flexibility to respond to demand due to, say, holiday resorts in summer and to longer term changes which affect factors influencing demand, ie emergence of new industrial centres.

6.3.4 Recommendation

The Review Group recommends:

- **that taxi areas be retained; and**
- **a Working Party identified in section 2.3 conduct an assessment of the feasibility of amalgamating adjoining taxi areas with similar assessed market values.**

6.4 Fares & tariff times

6.4.1 The restriction

The *Taxi Industry Act* sets the absolute fare to be charged and the different times of the day (tariff times) that different fares can be charged. By contrast, maximum fares are used in all other Australian jurisdiction, excluding Victoria. The setting of fares restricts operators from competing on fares, and therefore prevents buyers and sellers from trades at mutually agreed rates.

6.4.2 Discussion of costs and benefits

The legislation defines the specific fares that are to be charged at different times of the day/week. Regulated fares comprise a flagfall and a per km rate, plus waiting time (while the vehicle is hired but

not moving). The flagfall component, as a fixed charge, makes taxis more expensive, on a per kilometre basis, for shorter trips.

Accreditation of taxi groups under the current legislation offers the potential for these groups to register alternative fares and/or tariff times, enabling competition on fares.

The response from public consultation indicated that the taxi industry strongly supports controls over fares for a variety of reasons. Some operators valued regulated fares because of the certainty it provides in terms of known income while others felt that deregulation of fares would lead to problems associated with haggling and over zealous competition. The belief that taxis are an essential service was another reason put forward in support for the control over fares.

Consultation with users generally found support for control over fares because of the certainty it provides customers. However, an ability to negotiate fares on an individual basis for long trips was identified as desirable. This was supported by a submission to the Review which indicated that users are sufficiently well informed to negotiate fares. There was some support for the ability to negotiate a fare structure for bulk usage.

The Review Group concluded that the current controls over fares strongly benefit:

- users and industry by minimising the potential for disorderly conduct that could otherwise arise from over zealous competition; and
- users through the certainty it provides about the level of fare they will incur. The Review Group felt this was particularly important for visitors to the State who may lack sufficient knowledge to negotiate effectively.

The Review Group concluded the main costs of having set fares are:

- users and industry do not have the ability to negotiate fares, depriving users of potential savings that may arise from the flexibility to negotiate fares on an individual basis, and preventing operators from obtaining business that would otherwise be available;
- the inability to negotiate fares may impose a significant cost to the industry where there is competition with luxury hire cars that will be free of fare controls. However, the cost to industry of the inability to negotiate fares in peak periods was not considered high given the lack of peak periods compared with other States; and
- the inability to negotiate fares may be a significant cost to users as potential customers may be excluded from the market because of cost.

The absence of a range of formal fare categories such as 'multiple hire' was not considered to be a high cost to users because of the limited peak demand in the Tasmanian taxi market.

The Review Group felt there was little evidence to support an argument that the current controls over fares lead to drivers favouring more profitable longer trips (eg to and from the airports) at the expense of being available for short trips.

The Review Group found there to be significant benefits to users and the industry from the certainty over fares. However, it was also felt that significant costs are imposed on both users and industry from the inability to have a more flexible fare structure. On balance, and in light of the evidence presented, the Review Group concluded that control over maximum fares provides a net benefit to the public.

6.4.3 Less restrictive alternatives

6.4.3.1 *Maximum versus set fares*

The Review Group considered that price regulation by maximum fares is a less restrictive alternative, which can be justified in the public benefit.

The Review Group considers that having maximum rather than set fares meets the objective of preventing the potential for exploitation of consumers and also allows the industry to compete on an equal footing with the luxury hire car industry. It is considered that the ability to negotiate lower fares would result in innovation in the industry and contribute to some increase in demand for taxi services. As noted above, the claims by the taxi industry that there are too many taxis in the urban areas and that there are significant idle periods on most shifts indicates that there is potential for both industry and consumers to benefit from fare discounting at such times.

6.4.3.2 *Negotiation of fares*

It was noted that a move to a system that relied on negotiation of fares for individual trips was likely to lead to disorderly market behaviour which is unlikely to be in the long term public interest. However, the adoption of a revised fare control structure which facilitated negotiation in a more orderly fashion has potential for significant benefits. Such a change has the potential to significantly impact on arrangements in the industry such as the operation of radio rooms. The Review Group noted that changes of this nature would require a certain level of adjustment during a transition period. However, the Group considered the industry would ultimately respond to the changes in the regulatory rules over time just as it has developed under the current regulatory regime.

It should be noted that there is currently agreement amongst taxi operators that customers take the first taxi from a queue at a rank. Under a system where there is discounting, with the discounts shown on the taxi, a customer may not want to take the first taxi on a rank. It will be necessary to ensure that the other taxis allow this taxi to drive out from the rank to commence the journey. The Review Group recommends that the Working Party, in establishing the industry Code of Conduct, address this issue as a priority, but that fare competition at ranks should not be delayed until the Code is finalised.

The removal of maximum fares for a taxi booked through the telephone is designed to allow for a customer to purchase a higher quality service at a higher price. In cases where there is a single radio room in an area this removal of any maximum fare has the potential to be misused as the radio room could insist on a high priced fare, above the regulated maximum fare for some or all customers with the standard service offered.

Therefore, the Review Group considers that it is necessary to stipulate that no radio room can refuse a fare merely because the customer is not prepared to pay above the regulated maximum fare for a standard service.

The Review Group also noted that greater flexibility in the ability to negotiate fares has the potential to undermine accreditation. To date accreditation has only been utilised by one company to establish an alternative fare structure. The low level of response to accreditation may be explained by it being introduced relatively recently as part of *Taxi Industry Act 1995*.

The fact that more companies have not been active in developing alternative fare structures under accreditation may reveal that the industry is fairly conservative in respect to change of this nature. The Review Group considered that the potential public benefit from a more flexible approach to fare setting outweighed any potential negative impact upon the accreditation of taxi groups.

6.4.4 Other issues

There was general concern raised by taxi operators that the fare setting mechanism was slow to respond to changes in industry costs. Some operators called for greater involvement by the Taxi Industry Association of Tasmania in the fare setting process. Others suggested that fares should be set by an independent body rather than by the Transport Commission. An example of a more flexible approach is the Government Prices Oversight Order governing Metro fares. This set a maximum fare for 3 years determined by the fare at the beginning of the period adjusted by subsequent movements in the Consumer Price Index.

The Review Group concurs this is an issue, and that there is a need for a better mechanism to be developed. As discussed in section 2.3, the Review Group recommends that a Working Party consider this issue in consultation with industry.

6.4.5 Recommendations

The Review Group proposes the following principles be used as the basis for the implementation of alternative controls over taxi fares:

- replace set fares with regulated maximum fares (tariffs to remain ie the maximum fare and rate per kilometre will change according to the time of day);
- taxi-meters must be set at the maximum regulated fare;
- for the rank and hail market:
 - an individual licensee or group of licensees may offer discount fares below the maximum fare. The forms of discount to be an agreed amount off the final metered fare or a percentage reduction; and
 - any discount made available should be advertised on a sign legible from the outside of the taxi;
- for the telephone booked market only:
 - an individual licensee or group of licensees may negotiate fares below or, for a higher quality service, above the maximum fare;
 - unless agreed otherwise, the fare for a taxi booked through the telephone is the regulated maximum fare; and
 - a fare to be booked through the telephone must not be refused solely because the person seeking the booking is not prepared to pay above the regulated maximum fare for a standard service.

The Review Group recommends that contracts may be negotiated on a commercial basis between a licensee or group of licensees and users (individual or corporate) without the approval of, or lodgement with, the Transport Commission.

The Review Group recommends that a Working Party consider alternative fare setting mechanisms.

6.5 Standards for drivers

6.5.1 The restriction

To drive a taxi a person must pass background checks, health checks and taxi specialist training. Setting minimum driver standards limits the flexibility within the industry to employ drivers other than those who meet the specified standards.

6.5.2 Discussion of costs and benefits

Driver licence requirements for taxi drivers are contained in regulation under the *Traffic Act 1925* and as such are, strictly speaking, outside the Terms of Reference of the Review. However, the Review Group felt it would be valuable to consider this restriction given the importance of driver standards for the taxi industry. Evaluation of the costs and benefits and the response from public consultation will be valuable for consideration by the Department as to the efficacy of the current system.

Taxi drivers are required to undergo rigorous screening and testing to ensure their suitability. Currently taxi drivers obtain a Public Passenger Vehicle Certificate under the *Traffic Act 1925*. From mid 2000 the provisions relating to the eligibility to drive a vehicle for hire or reward will be provided for under the *Vehicle and Traffic Act 1999*. The testing requirements will continue to cover medical, police records and driving experience.

To further enhance service quality, taxi drivers also undertake an industry based driver-training course that includes training in communication, map reading and navigation, customer service delivery, taxi administration procedures and taxi driving practice.

The response from written submissions and at the public hearings suggested that operators saw the benefits of minimum driver standards as driver competency, public safety and customer service skills. In particular, respondents to the Review felt strongly that minimum driver standards are important to guarantee public safety and provide quality of service to users.

Consultation with users indicated that drivers provided a safe service and that users were generally satisfied with the quality of service provided; although, there was some concern about variability in standards amongst drivers.

The Review Group found the benefits of driver standards are:

- users/public are provided greater levels of safety. The screening of a driver's character and medical condition where seen as important for public safety. Less tangible benefits are also considered to flow to users from the confidence they hold in taxis as a safe form of public transport; and
- the reputation and esteem of the industry is enhanced, as drivers learn important customer service skills, which helps guarantee they can competently operate a taxi on entry to the industry.

The Review Group found the main costs imposed by driver standards are:

- the financial costs of training and the administration of driver records by industry and government respectively, although, the cost to both these sectors was considered low; and
- that the standards may restrict the supply of drivers to the industry, though the cost to industry of this restriction is considered low.

The Review Group found there to be significant benefits in terms of safety to industry, users and the community from the current system of driver certification. These benefits do not come at high cost to any stakeholder group. The Review Group concluded that driver standards deliver a net benefit to the public.

6.5.3 Less restrictive alternatives

The Review Group was unable to identify any less restrictive alternatives that yielded a net public benefit.

6.5.4 Other issues

The Review Group noted there was general support for drivers to undertake additional specialist training to drive multipurpose taxis, if introduced. While the content of the taxi driver course is outside the terms of reference of this Review, the matter has been noted and should be further evaluated outside this review.

6.5.5 Recommendations

The Review Group recommends the restriction relating to minimum driver standards be retained.

6.6 Minimum vehicle standards, age and inspection requirements

6.6.1 The restriction

The age of vehicles that can operate as taxis in Tasmania is strictly controlled, which restricts the industry from maintaining a more diversified fleet and adds to industry costs. Requiring minimum vehicle standards prevents operators from using their own judgement as to the vehicles used.

6.6.2 Discussion of costs and benefits

In Tasmania a vehicle needs to be no more than 5 years old when first used as a taxi, and can be no more than 8 years at inspection (these limits are 7 years and 10 years respectively in rural areas). Taxis are inspected every 6 months and subject to strict quality as well as roadworthiness requirements. Maximum vehicle age is a sensitive issue since the Department has the discretion to allow older vehicles to operate. Industry believes that there is a need to treat all operators in an area equitably so that they face the same cost structures.

The suitability of a vehicle for use as a taxi is part of the Australian Design Rule compliance. Generally only medium and large family sedans and wagons from the major large-volume manufactures – Holden, Ford, Mitsubishi, Nissan and Toyota are approved as suitable for taxis. However, the Vehicle Operations Branch of Department of Infrastructure, Energy & Resources does have the ability to approve other vehicles for use as taxis on a case by case basis.

Taxis are required to undergo six monthly inspection checks to ensure they are maintained in a safe and roadworthy condition.

Responses from the public consultation process indicated that operators generally believe minimum vehicle standards and routine inspections are required to ensure taxis are safe and are of an acceptable quality, although there was a wide range of opinions as to what the standards should be. Many respondents were satisfied with the current age criteria while others felt that the entry and exit ages should be modified or there should be greater scope for discretion in cases where taxis have reached the exit age but are in good condition and travelled low kilometres. However, respondents were generally of the opinion that without standards, and appropriate enforcement, the safety and quality condition of taxis could fall.

Consultation with users suggested that generally the quality of taxis is considered high especially when compared to mainland states. Furthermore, users from the hospitality industry felt that high quality standards are important for the State's tourism industry.

The Review Group found the major benefits of the current vehicle standards are:

- a high level of safety to users and the general public. It was also felt that users attached a value to knowing that safety and quality standards of taxis are regulated and that taxis are regularly inspected to ensure compliance; and
- that uniformity reduces the discretion available to industry to decide vehicle type and this creates certainty and knowledge about cost structures and the relative viability of competitors. However, the Group noted that this benefit is more than offset by costs to industry and users in terms of a lack of innovation.

The Review Group found the main costs of the current vehicle standards are:

- operators have little freedom to make a commercial decision regarding the type of vehicle to use, thereby potentially stifling innovation; and
- users are given a limited a choice of vehicles.

The Review Group found the restrictions on the maximum age of a vehicle when first licensed as a taxi imposes unnecessary limitations on industry and users. Evidence from industry respondents to the review indicated that the high utilisation of taxis leads to the use of relatively modern vehicles irrespective of the requirements regarding maximum age.

It was suggested that the cost savings of using older vehicles is offset by higher costs associated with 'down-time' and repairs due to the tendency for more frequent mechanical breakdown. It was noted that while age may not be the best measure of quality it is the most practical means of determining when a vehicle should no longer be used as a taxi. As such the absolute maximum age limits should be retained. There is a reasonable basis for allowing increased maximum ages in rural areas, as is currently permitted, given the lower levels of vehicle utilisation.

The Review Group concluded that the current maximum age for taxis of 8 years in metropolitan and 10 years in non-metropolitan areas should be retained.

However, the Review Group could not justify in the public interest the restriction on maximum entry age. It was felt that allowing older well-maintained vehicles to enter the industry would not compromise public safety or quality of services.

The Review Group noted that in Tasmania, as in all other States, the guidelines as to the type of vehicle that is suitable for use as a taxi is set by the Federal Office of Road Safety. Hence, it is felt

that as the costs of this restriction are felt equally across all States it is an issue that should be pursued on a national basis.

The Review Group found there were significant benefits in terms of safety and quality flowing to users from ensuring vehicle standards through the current inspection system. While this restriction imposes some costs, the Review Group concluded that maintenance of vehicle standards delivers a net benefit to the public.

6.6.3 Less restrictive alternatives

6.6.3.1 Removal of requirement for a maximum vehicle age when a vehicle is first licensed as a taxi

The Review Group believes that operators should have the commercial freedom to make a decision regarding the age of a vehicle when it first enters the industry so long as it is less than a maximum age that a vehicle can be used as a taxi.

It is anticipated benefits would flow to industry through the cost savings. In turn this may lead to increased availability, as operators respond to increased viability. There may be a minor cost to users in terms of the quality of the vehicle.

The Group felt that the maximum ages for both urban and rural areas are appropriate and should remain. It was felt that removing age restrictions altogether would impose significant costs to government in terms of compliance as well as impact on the travelling public through a decline in safety and quality.

6.6.4 Other issues

The Review Group noted a concern that the wheelchair accessible 'taxis' in Hobart did not provide a similar level of quality as standard taxis. While the quality of accessible taxis is strictly outside the terms of reference of this Review, it is a matter that has been noted and should be further considered outside this review. This should be done, as discussed in section 2.3, by a Working Party in consultation with industry and users.

6.6.5 Recommendation

The Review Group recommends that:

- **vehicle standards in respect of safety and quality remain unchanged; and**
- **vehicle age restrictions on entry be removed but the restriction on the maximum age that a vehicle can be used as a taxi should be retained at 8 years in urban areas (Hobart, Launceston, Burnie and Devonport) and 10 years in other areas.**

6.7 Operating conduct of drivers (touting, use of ranks etc)

6.7.1 The restriction

The operating conduct of drivers is controlled which limit drivers' ability to obtain hirings and therefore restricts their ability to compete in the passenger transport market.

6.7.2 Discussion of costs and benefits

Taxis in Tasmania are subject to a number of controls over their operating behaviour. While taxis can be hailed off the street, they are required to only stand for trade at designated taxi ranks. The way in which taxis ply for trade is also regulated. Drivers cannot tout for business (ie, leave the vehicle to obtain a fare) and are required to conduct their business in an orderly manner.⁴

The response from the public consultation process suggested that most operators supported restrictions on operating conduct. Most operators consider that allowing touting would be detrimental to the industry and result in disorderly conduct. It was felt that touting could also affect the State's image in relation to tourism.

The Review Group found the benefits of controls over operating conduct are:

- over zealous competition is avoided and there is certainty about the conduct of the industry, which benefits users and the industry; and
- the risk of localised traffic congestion in metropolitan areas is minimised, which provides a significant benefit to the public at large. The current restrictions specify how taxis can ply for trade ie taxis are required to stand at ranks. However, in terms of rural areas, where there may be no ranks, restrictions on operating conduct have less relevance. In this regard, the Review Group felt that controls over driver conduct could be relaxed in these areas.

The Review Group found the main costs imposed by controls over operating conduct are:

- industry growth is restricted by the inability for taxi drivers to actively seek hirings, though the costs of this restriction are considered low; and
- users are denied the potential benefit of being able to be approached by drivers plying for trade, though the cost of this restriction is also considered low.

It should be noted that some restrictions on operating conduct are imposed through industry convention rather than regulation. An example of this is taking the first-cab-off-the-rank by customers.

The Review Group found that significant benefits flow to industry, users and the public from restrictions on the operating conduct of taxi drivers. The benefits include orderly conduct between buyer and seller and to a lesser extent orderly traffic management. The Review Group concluded that controls over the operating conduct of drivers deliver a net benefit to the public.

⁴ One area of concern raised by taxi industry was the inability to refuse a lawful hiring (Traffic (Public Vehicles) Regulations) apart from defined circumstances. Under amendments to the Taxi Industry Regulations (to replace the Traffic (Public Vehicles) Regulations), this restriction will be limited to rank hirings. The Review Group considered that this restriction was necessary in order to ensure an adequate supply of taxis.

6.7.3 Less restrictive alternatives

6.7.3.1 Code of Conduct

The Review Group believes controls over operating conduct could be more appropriately handled by a mechanism that is responsive to industry change and consumer demands. The Review Group felt that a Code of Conduct could provide a suitable mechanism for the effective management of the operating conduct.

The Code of Practice for the Operating of Taxis, issued by the Taxi Industry Association of Tasmania Limited in July 1997 sets out and clarifies the obligations and expectations of taxi drivers, their vehicles and customers. The Code of Practice does not have the force of law, but industry and customers are expected to abide by the Code. Some provisions, for example, requiring drivers to travel by the route directed by the passenger unless a route is not specified, and then by the most practicable route available, are replications of the *Traffic (Public Vehicles) Regulations 1967* in relation to taxis. Others, such as, "the driver of a taxi shall be neatly and cleanly attired" are specified only in the Code of Practice.

The Review Group believes that Codes of Conduct are emerging as extremely useful tools for establishing and promoting minimum service guidelines. However, the Group felt that a Code of Conduct may not be effective unless it can be applied uniformly across both taxi and luxury hire car industries. To this end, the Group considered that a Code of Conduct that could be applied to the both industries would be extremely useful and could provide a range of benefits to industry, users and the general public.

Nevertheless, it was felt there would be a need for basic regulatory controls over operating conduct to remain in place to guarantee effective enforcement, in the short term. This is particularly the case in terms of the market for pre-booked work, where luxury hire cars and taxis are likely to compete, so as to prevent luxury hire cars from undermining the effectiveness of the *Taxi Industry Act*.

6.7.4 Recommendation

The Review Group recommends that:

- restrictions on operating conduct continue to be enforced through legislation until the Transport Commission is satisfied that a Code of Conduct can achieve an equivalent level of effectiveness; and
- a Working Party identified in section 2.3 should revise and expand the current Tasmanian Taxi Industry Association's Code of Conduct to take account of those changes to apply to the taxi and luxury hire car industries to regulate operating conduct in the future.

7 Analysis of the restrictions on competition in the luxury hire car legislation

7.1 Introduction

This section of the RIS evaluates the costs and benefits of each restriction on competition contained in the luxury hire car legislation (*Taxi and Luxury Hire Cars Industries Reform Act 1999*) in accordance with Step 4 of the analytical approach to the review, shown in Figure 1. Since all restrictions that do not meet the objectives of the legislation have been identified and 'sifted out' in section 5, it can be taken that the restrictions evaluated in this section all meet the objectives of the legislation.

In this section, the Review Group considers the costs and benefits of each restriction from the perspective of industry, users and government/public.

Where the costs outweigh the benefits of a restriction the Review Group should recommend the removal of the provision or reassess the objective the restriction is designed to achieve. In cases where the benefits outweigh the costs of a restriction, then less restrictive alternatives of achieving the objective of the restriction are considered in accordance with Step 5 of the analytical approach to the review.

The restrictions on to competition that are considered in this section are:

- licensing and licence number and price (to be considered collectively);
- accreditation;
- minimum vehicle standards and maximum age (to be considered collectively);
- operating conduct of drivers; and
- standards for drivers.

Each of these will now be discussed in turn.

7.2 Licensing

7.2.1 The restriction

A luxury hire car licence will be needed to operate a vehicle as a general-purpose hire car. Licensing acts as a barrier to entry if licences are not freely available.

7.2.2 Discussion of costs and benefits

Persons wishing to operate luxury hire cars will be required to pay a one-off licence fee of \$5,000 per vehicle and an annual fee to recover costs associated with the administration of the licensing system. There will be no restrictions on the number of hire car vehicles that a person can own or operate.

The figure of \$5,000 was based on the Valuer-General's estimate of the value of hire car licences.

There was strong support for licensing of luxury hire cars expressed by respondents to the Review. Respondents from the taxi industry generally called for licensing to be used to control the number of luxury hire cars and to prevent these cars from being used as de facto taxis.

The Review Group concluded that the main benefit of licensing luxury hire cars is that:

- licensing is required to enable the luxury hire car industry to be effectively regulated;
- the \$5,000 fee will assist in preventing the undermining of the taxi industry that may occur from unrestricted entry which could, in turn, undermine the objectives of the *Taxi Industry Act*;
- the licence fee will help to ensure that entrants are committed to the industry and will be focussed on providing a quality service rather than operating as de facto taxis; and
- it will also retain the value of the current hire car licences.

The Review Group concluded that the main costs of licensing luxury hire cars are that it imposes additional costs to new entrants to the industry.

The Review Group felt that, at this stage, it is difficult to evaluate the effectiveness of the licence fee and thus the benefit of this restriction. Furthermore, it was considered that the licence fee would have little effect in differentiating taxis from luxury hire cars, as the cost is small, in the context of the total investment needed to enter the luxury hire car industry.

In assessing the costs and benefits of this restriction the Review Group was mindful of the findings of the Burton Committee. That Committee concluded that:

- there was no valid reason to limit the number of hire cars operating in Tasmania but felt that there is a need to ensure minimum quality restrictions apply to the vehicles used in the industry;
- without appropriate regulation the hire car market could result in a merging of the taxi and hire car markets leading to the deregulation of the taxi industry by stealth; and
- vehicles entering the industry should be of a high quality, and that strict age and quality limits apply to their operation (they recommended vehicles be a minimum of current model LTD).

The Review Group felt that together, the licence fee and the control over vehicle quality of vehicles eligible to be used as luxury hire cars (discussed in section 7.4) contained in the legislation could be seen to assist in achieving the intent of the Burton Committee's findings.

The Review Group found it difficult to determine, with any level of certainty, the impact the licence fee is likely to have. However, given the costs and benefits are considered low and the cost to enter the industry includes both the licence fee and a suitable luxury vehicle together with mandatory accreditation, the Review Group concluded that this licence fee will contribute to the management of the interface between the two industries. In addition, a licence fee of \$5,000 is consistent with the recommendation for the taxi industry regarding the release of new licences based on market value. The Review Group concluded that the licence fee delivers a net benefit to the public.

7.2.3 Less restrictive alternatives

7.2.3.1 Interface between taxis and hire cars

The Review Group identified a number of alternative mechanisms for managing the interface between the taxi and luxury hire car industries, other than the imposition of a one off fee of \$5,000. These mechanisms include:

- ensuring luxury hire cars are of a premium quality - the Burton Committee identified vehicle quality as the most suitable entry restriction for the luxury hire car industry; and
- an annual licence fee for the luxury hire car industry, on the basis that a licence fee assists in ensuring operators are committed to the industry and therefore, an annual fee is more likely to achieve this objective than the once off fee.

7.2.4 Recommendation

The Review Group recommends that the licence fee should be implemented but closely monitored as to its effectiveness (refer 7.4.4).

7.3 Mandatory accreditation

7.3.1 The restriction

Operators of luxury hire cars will need to be accredited. Requiring operators of luxury hire cars to be accredited reduces flexibility and increases costs for new entrants to the industry.

7.3.2 Discussion of costs and benefits

Under the legislation for luxury hire cars it is intended that a 'responsible operator' will be nominated for each licensed vehicle and that a person will need to be 'accredited⁵'. An objective of mandatory accreditation is to ensure the luxury hire car industry provides a premium quality service.

The accreditation provisions are intended to demonstrate that appropriate quality management systems are in place to ensure that luxury hire car services are of a premium quality compared to standard taxi services. Accreditation also demonstrates that the operation of the vehicle is properly controlled to ensure that they are not simply operating as 'de facto' taxis, to the extent where the objectives of the *Taxi Industry Act* are not expected to be met.

There was strong support for mandatory accreditation of luxury hire car operators expressed by respondents to the review, most of whom were in the taxi industry. Generally, respondents believed mandatory accreditation would ensure luxury hire car operators provide a high quality service, and to a lesser extent ensure services are provided in a safe manner. Importantly many respondents saw accreditation as means to clarify the role of luxury hire cars and as such provide a mechanism to prevent overlap into the taxi market.

⁵ Existing prestige hire car operators will be granted interim accreditation. Interim accreditation provisions will be adopted for a period of up to 3 years. Beyond 3 years long term accreditation provisions will be in place that will need to be met by all operators of luxury hire cars on an ongoing basis.

The Review Group concluded that the major benefits of mandatory accreditation are:

- users should receive improved levels of service from operators who are trained in the provision of quality service;
- the industry itself will have enhanced status and hence marketing opportunities stemming from the accreditation scheme; and
- that it enhances the distinction between luxury hire cars and taxis. It is expected that accreditation will ensure operators are focused on the provision of quality services, undertaking only pre-booked work and developing niche markets. The Review Group anticipates that accreditation will assist in preventing the luxury hire car industry from undermining taxis and the public benefits provided by the taxi industry.

Some respondents were concerned that the potential benefits of accreditation would not be obtained because the system would be liable to abuse. As an alternative to industry specific accreditation, it was proposed that operators be required to meet a generic accreditation scheme under the International Standards Organisation (ISO).

The Review Group considered the main costs of mandatory accreditation will be borne by government through the costs associated with establishing and maintaining the scheme.

The Review Group found that accreditation provides a mechanism to achieve quality standards in the luxury hire car industry to the benefit of users and industry itself. These benefits are provided without high cost to any stakeholder group. The Review Group concluded that mandatory accreditation delivers a net benefit to the public.

7.3.3 Less restrictive alternatives

7.3.3.1 Voluntary accreditation

The Review Group considered the merits of voluntary versus mandatory accreditation. Under a voluntary system operators would have greater freedom to make decisions about the quality standards they were prepared to offer users; although, this would be at the cost of a minimum level of quality across the industry.

However, the Review Group found it difficult to make any meaningful assessment as to the likely impact that mandatory accreditation will have on the industry as the details of accreditation are yet to be finalised. The Review Group was mindful that accreditation provides a means of achieving a key objective of the legislation, that being to provide a premium quality of service.

The Review Group felt that a specialist independent body might be more effective in managing accreditation than the Department. The Group identified that an independent body would be more likely to be focused on developing specialist knowledge, have an ability to respond to changes in the industry and be better able to focus on achieving the benefits of accreditation.

7.3.4 Recommendation

The Review Group recommends mandatory accreditation be adopted. However, the Review Group recommends that the Department evaluate a range of management systems to achieve the most efficient and effective system.

7.4 Minimum vehicle standard, age and inspection requirements

7.4.1 The restriction

Only luxury vehicles of a maximum age will be able to be licensed as luxury hire cars. Requiring minimum vehicle standards prevents operators from using their own judgement on the vehicles they use.

7.4.2 Discussion of costs and benefits

The luxury hire car legislation will require that a vehicle must be classified as a luxury vehicle for it be able to be licensed as a luxury hire car. Vehicles will be classified as luxury vehicles through an inspection process, and will need to meet three basic criteria, these being:

- they will need to be a suitable make and model of vehicle;
- they will need to be no more than the defined maximum ages; and
- they will need to be maintained at a premium condition. Vehicle standards are required to ensure luxury hire cars are safe, roadworthy and are of a premium quality.

A listing of makes and models of vehicles considered to be luxury hire cars has been developed based on consideration of equivalent definitions used in other states (see Appendix F). The Department will be able to approve any other model of vehicle provided it is equivalent to one of the identified vehicles. The base model luxury vehicle is a Ford Fairlane Ghia.

The consultations suggested that operators saw minimum vehicle standards and routine inspections are required to ensure luxury hire cars are safe and provide a premium level of quality. It is important to note that the general response from taxi operators was that the standard regarding age would not achieve a luxury vehicle status. A number of respondents suggested alternative indicators should be used in determining acceptable vehicles including price and vehicle features/appointments. The disadvantage of the minimum vehicle standards is that it will limit the capacity of operators to use lower standard vehicles, thus reducing consumer choice and competition.

The Review Group concluded that the vehicle standards benefit:

- users and the general public in terms of safety and quality. It was noted that advice from the Federal Office of Road Safety would not form the basis for determining the suitability for use as a luxury hire car. However, vehicles eligible for use as luxury hire cars are all either higher standard versions of vehicles that are eligible to be taxis or are high standard European/Japanese vehicles which are presumed to offer similar levels of safety; and
- the public in general from their ability to manage the interface between luxury hire cars and taxis, though the capacity for the vehicle standards to achieved this is relatively low.

The Review Group concluded that industry and users will experience the main costs of the vehicle standards, since the restriction imposes standards in terms of quality, age and vehicle type. These costs arise from the operators' inability to select vehicles, which meet particular market niches. Prescribing vehicle standards are also seen to stifle innovation.

The Review Group found, on balance that the benefits in terms of safety exceed the potential costs and concludes that the vehicle standards will deliver a net benefit to the public.

7.4.3 Less restrictive alternatives

The Review Group did not identify any less restrictive alternatives that yield a net public benefit. The level of vehicle quality is an important mechanism to differentiate luxury hire cars and taxis. The schedule of vehicles suitable for use as luxury hire cars provides a wide range of vehicles and as such is unlikely to impose significant costs on the industry in terms of limiting flexibility or innovation.

It should be noted the content of the schedule of vehicles may need to be reviewed in respect of quality requirements if the \$5,000 licence is found to be ineffective in respect to its role in preventing luxury hire cars from undermining of services provided by taxis (see Recommendation 7.2.4).

7.4.4 Recommendation

The Review Group recommends:

- the vehicle standards in respect of safety and quality should remain unchanged; and
- the schedule of vehicles suitable for use as luxury hire cars should also remain unchanged; although, if the Department finds that hiring activity in the luxury hire car market undermines Objective 3 of the legislative amendment in relation to luxury hire cars (refer 4.3.1), to the extent that the objectives of the *Taxi Industry Act* are not being adequately met, the Department should review the schedule for vehicles eligible to be luxury hire cars and make recommendations to the Minister that restore an appropriate separation between the luxury hire car industry and the taxi industry.

7.5 Operating conduct of drivers

7.5.1 The restriction

Drivers of luxury hire cars will be prevented from being hailed or plying for hire in a public street. They will only be able to undertake pre-booked work. These controls will limit drivers' ability to obtain hirings.

7.5.2 Discussion of costs and benefits

Luxury hire cars are restricted from standing for hire at taxi ranks or acquiring bookings on street. They may only accept phone bookings. This restriction is designed to prevent hire cars from encroaching on the taxi market, whilst also ensuring a higher quality of service to users and the public.

Anecdotal evidence suggests that the boundaries between the taxi market and the hire car markets are becoming increasingly blurred, especially with the use of mobile phones. The Review Group notes it is conceivable for customers to make a hire by mobile phone while in close proximity to a hire car. This scenario is little different to hiring a taxi from a rank or from a hail. The interaction between the two markets was of considerable interest to both the taxi industry and the hire car industry at the public hearings.

The Review Group concluded that the benefits of controls over driver operating conduct are:

- problems associated with disorderly conduct are minimised; and
- delineation between taxis and luxury hire cars is reinforced.

The Review Group found the costs of the restriction are minimal.

The Review Group found that significant benefits will flow to industry, users and the public from this restriction on the operating conduct of luxury hire car drivers. These benefits should be more pronounced in areas where there is potential for strong competition between luxury hire cars and taxis. The Review Group concluded that controls over operating conduct of drivers will deliver a net benefit to the public.

7.5.3 Less restrictive alternatives

The Review Group did not identify any less restrictive alternatives that yielded a net public benefit.

As noted in section 6.7.3.1, the Review Group believes that Codes of Conduct are emerging as extremely useful tools for establishing and promoting minimum service guidelines. However, the Group felt that a Code of Conduct may not be effective unless it can be applied uniformly across both industries. To this end, the Group felt that ideally a Code of Conduct that could be applied to the taxi and luxury hire car industries would be extremely useful and could provide a range of benefits to industry, user and the general public.

Nevertheless, it was felt there would be a need for basic regulatory controls over operating conduct to remain in place to guarantee effective enforcement, in the short term. This is particularly the case in terms of the market for pre-booked work, where luxury hire cars and taxis are likely to compete, so as to prevent luxury hire cars from undermining the effectiveness of the *Taxi Industry Act*.

7.5.4 Recommendation

The Review Group recommends that:

- the controls over driver conduct for the luxury hire car industry remain unchanged; and
- the Working Party identified in section 2.3 should establish an industry Code of Conduct that applies to the taxi and luxury hire car industries to regulate operating conduct in the future.

7.6 Standards for drivers

7.6.1 The restriction

Drivers of luxury hire cars will need to hold a Public Passenger Vehicle Certificate. Setting minimum driver standards limits the flexibility within the industry to employ drivers other than those who meet the specified standards.

7.6.2 Discussion of costs and benefits

Drivers of luxury hire cars will be required to undergo rigorous screening and testing to ensure their suitability. Taxi drivers currently obtain a Public Passenger Vehicle Certificate under the *Traffic Act 1925*, however from mid 2000 the provisions relating to the eligibility to drive a vehicle for hire or reward will be known as Ancillary Certificates provided for under the *Vehicle and Traffic Act 1999*. The testing requirements will continue to cover medical, police records and driving experience. An

objective of prescribing driver standards is to ensure luxury hire car services are delivered in a safe manner.

The regulatory requirements for drivers will be to hold a Public Passenger Vehicle Certificate. This will require drivers of luxury hire cars to be screened by the Department, as currently required for taxi drivers, as 'fit and proper' in terms of health, police records and driving experience. Any additional driver standard requirements will be covered through the operator accreditation scheme.

The public consultation process confirmed that minimum driver standards are important to guarantee public safety and, in particular for the luxury hire car industry, to provide quality of service to users.

The Review Group found the major benefit arising from the driver standards is improved public safety. This is however, a benefit that the Review Group weights highly.

The Review Group concluded that the main costs of the driver standards are:

- the financial costs of training and the administration of driver records faced by industry and government respectively were seen as the most significant costs of driver standards by the Review Group. The cost to both these sectors was considered low; and
- the potential restriction it poses for the supply of drivers to the industry, though this is also considered low.

The Review Group found that significant benefits flow to industry, users and the community from minimum driver standards. These benefits do not come at high cost to any stakeholder group. The Review Group concluded that driver standards deliver a net benefit to the public.

7.6.3 Less restrictive alternatives

Given the considerable public benefits flowing from the standards for drivers any less restrictive alternatives are unlikely to deliver greater net benefits to the community.

7.6.4 Recommendation

The Review Group recommends the controls relating to driver standards for the luxury hire car industry remain unchanged.

Appendix A: Terms of reference

Introduction

At the meeting of the Council of Australian Governments (COAG) on 11 April 1995, the Tasmanian Government (along with the Commonwealth and all other State and Territory governments) signed three inter-governmental agreements relating to the implementation of a national competition policy (NCP). The agreements signed were:

- the Conduct Code Agreement;
- the Competition Principles Agreement; and
- the Agreement to Implement the National Competition Policy and Related Reforms.

The Competition Principles Agreement (CPA), among other things, requires the State Government to review and, where appropriate, reform by the year 2000 all legislation restricting competition. This requirement is outlined in clause 5.

The State Government's Legislation Review Program (LRP) meets Tasmania's obligations under clause 5 of the CPA by, inter alia, outlining both a timetable for the review of all existing legislation that imposes a restriction on competition and a process to ensure that all new legislative proposals that restrict competition or significantly impact on business are properly justified. Further, the LRP details the procedures and guidelines to be followed by agencies, authorities and review bodies in this area. Details of the LRP's requirements are contained in the Legislative Review Program: 1996-2000 Procedures and Guidelines Manual (the "Manual").

Terms of Reference

The Taxi Industry Review Group, as detailed in Appendix B, shall conduct a major review of the *Taxi Industry Act 1995* and all subordinate legislation under that Act, having regard to the following guiding principle:

"That legislation 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."

As a minimum, the review shall:

1. clarify the objectives of the legislation;
2. identify the nature of the existing restrictions on competition;
3. consider whether the existing restrictions, or any other form of restriction, should be retained by;
4. analysing the likely effect of the existing restrictions or any other form of restriction on competition within the taxi industry and on the economy generally;
5. assessing and balancing the costs and benefits of the restrictions; and

6. considering alternative means for achieving the same result, including non-legislative approaches; and
7. identify the broader impact of the legislation on business and assess whether this impact is warranted in the public benefit.

In addition, the Terms of Reference for the Taxi Industry Review Group may be expanded during the course of the review to include comparable consideration of any proposed legislation to amend the *Passenger Transport Act 1997* or the *Taxi Industry Act 1995* with regard to the regulation of the luxury hire car industry.

Without limiting the scope of the review, the Taxi Industry Review Group shall address the following issues:

- review the present legislation in Tasmania relating to regulation of the taxi industry;
- examine the legislation and regulatory systems (including any appropriate industry self-regulation or codes of practice) governing taxis in other jurisdictions, as well as any relevant reviews of the taxi industry;
- consider the findings of the Burton Inquiry with respect to the regulation of public passenger vehicles (other than taxis) and the interface with the taxi industry;
- examine the costs and benefits associated with the following restrictions on competition, with a view to determining if such restrictions are justifiable in the public benefit:
 - the licensing system for taxis;
 - the regulation of taxi fares; and
 - the conditions imposed by the licensing of taxis, including the specification of capped values and taxi areas for perpetual taxi licences and the vehicle age restrictions on both new and established licensees.
- consider the cost and the impact of the current regulatory regime on the State Government, the taxi and luxury hire car industry and the community generally; and
- identify any sections of the *Taxi Industry Act 1995* and supporting subordinate legislation which should be repealed or amended, or any additions required.

The Taxi Industry Review Group shall take other broad policy considerations of the Tasmanian Government into account when determining whether legislative restrictions on competition or significant impacts on business are warranted. These considerations include, but are not limited to:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- economic and regional development, including employment and investment growth;

- the interests of consumers generally or a class of consumers;
- the competitiveness of Australian businesses; and
- the efficient allocation of resources.

Format of the review

The Taxi Industry Review Group must complete a Regulatory Impact Statement (RIS) in accordance with the proforma contained in Appendix 4 of the Manual. The RIS should explain:

- the objectives of the legislation;
- the issues surrounding any restriction(s) on competition;
- the benefits and costs which flow from those restriction(s); and
- the broader impact of the legislation on business and whether this impact is warranted in the public benefit.

It is mandatory that the Taxi Industry Review Group undertake public consultation on the Regulatory Impact Statement in accordance with the procedures set out in the Manual. The public consultation process should:

- detail the scope of the review;
- explain the key issues;
- provide details of where copies of the RIS may be obtained; and
- obtain feedback and input from interested parties.

The Taxi Industry Review Group must seek endorsement from the Department of Treasury and Finance's Regulation Review Unit (RRU) for the completed RIS and the planned consultation process, prior to the public consultation actually being undertaken.

Reporting requirements

The Taxi Industry Review Group must produce a final review report in accordance with the Manual. The final review report must contain:

- a copy of the RIS;
- a summary of any public consultation undertaken;
- clear recommendations on the possible actions that can be taken by the Government, including retaining, amending or repealing the specific legislative restriction(s) on competition in question. Where retention or amendment is recommended, the report must include a clear demonstration of the benefit to the public;
- clear recommendations on any possible actions that can be taken by the Government in relation to the broader impact of the legislation on business; and

- an outline of any transitional arrangements which may be required under the recommended course of action and the rationale for these arrangements.

The date of completion

The Taxi Industry Review Group shall provide a copy of both the completed review report and RRU endorsement of the RIS to the Minister for Infrastructure, Energy and Resources and the Treasurer within eight months of the establishment of the Review Group.

Appendix B: Review group

In May 1999, the Minister for Infrastructure, Energy and Resources and the Treasurer jointly determined that the Taxi Industry Review Group would consist of the following persons representing their respective organisations:

- Martin Rees, Partner, KPMG Consulting;
- Jack Lane, Manager Passenger Transport Policy, Department of Infrastructure, Energy and Resources;
- Toby Green, President, Taxi Industry Association of Tasmania;
- Chris Lock, Director, Economic Policy, Department of Treasury and Finance; and
- Joan Rylah, Secretary, Taxi Industry Advisory Board.

On 1 September, Joan Rylah advised the Taxi Industry Review Group that she was resigning from the Review Group owing to time pressures of her work commitments. The report therefore represents the views of the remaining Review Group members.

Appendix C: Timetable

The Review began in May 1999 and is scheduled for completion in December 1999. Key dates in the process are as follows.

21 July 1999	Discussion Paper released, start of comment period and stakeholder consultation
20 August 1999	Submissions on Discussion Paper closed
31 August – 2 September 1999	Public hearings for Discussion Paper were held in Launceston, Burnie and Hobart
3 November 1999	Draft Regulatory Impact Statement (RIS) released analysing restrictions on competition and alternatives
26 November 1999	Public consultation on RIS concludes
April 2000	Submission of Final Report, incorporating RIS to the Minister for Infrastructure, Energy and Resources and the Treasurer

Appendix D: Arrangements interstate and overseas

The following provides a broad overview of the regulatory arrangements in other States and in overseas jurisdictions, particularly New Zealand and the USA, where deregulation has been attempted. Regulatory arrangements in other Australian jurisdictions, excluding the Northern Territory, are largely the same as Tasmania. The number of taxis is restricted and Government directly regulates the quality of the taxi industry. Fares are regulated and Government sets standards for drivers, vehicles and networks also. The restriction on the number of taxis creates a scarcity value for licences.

Key findings of deregulation of the taxicab industry in New Zealand⁶

- There has been a significant increase in the number of taxi organisations and taxi vehicles. In 1989 there were 107 operators and 2,762 vehicles nationwide. By 1994 these had increased to 156 and 4,079 respectively. The largest increases occurred in the four largest cities of New Zealand.
- The availability of taxi services in small towns decreased marginally under deregulation.
- Post-deregulation experience in the Wellington market has been characterised by a series of mergers between taxi companies.
- A number of innovations were introduced in some of the large cities; these included the operation of minibuses along scheduled routes; the use of minibuses to transport people to entertainment venues; and, the successful tendering for delivery of mail. Innovations in the city of Wellington included taxi vans being added to fleets; executive cabs with uniforms; the range and flexibility of company accounts were increased; new taxi-charge systems were introduced; advertising on cabs was permitted; and taxi companies started to tender for public bus routes.
- Real fares decreased in the larger cities (ie 15 to 25 per cent) while the evidence from smaller towns was mixed. In some, fares decreased, but others experienced price increases.

United States of America

- A noticeable increase in the number of taxis available.
- A change in industry structure. For example in San Diego, prior to deregulation 68 per cent of cabs were operated by the largest fleets and only 14 per cent by operators of two or less cabs. Within two years, the large fleets, each having increased their stock of taxis by one, had 45% of the total and two or one cab operators 30%.
- The influx of taxis, especially at the airport, caused cab waiting times to be so high that the major firms effectively withdrew from the rank business.
- The hoped-for price competition did not materialise except in isolated instances. Over a 13 year period, the increase in mean fares in cities which deregulated was 145%, whereas areas which kept regulation had put fares up by 133%.
- There was some evidence of price competition in San Diego and Seattle, where the second largest firms undercut the largest by 15%.

⁶ Source: Review of the Western Australian Taxi Industry, Department of Transport, August 1999

- The effectiveness of price competition was undermined somewhat as airports imposed 'First In First Out' queuing to maintain order and thus limited users' ability to choose between cabs.
- Price competition was little more evident in the telephone market than in the rank market.
- There was an increased economic opportunity to enter the industry without high cost.

Summary of worldwide experience following deregulation

- Increases in the supply of taxis.
- Decreases in real fares (New Zealand) with increases in some US cities.
- A decline in the quality of taxis and drivers.
- Increases in innovative products and services offered by the industry.
- Reduction on income for drivers.
- Improvement in services as measured in average waiting times.

Effects of deregulation in smaller urban areas

Experience from New Zealand in relation to changes to changes in taxi regulation indicates that the effects of deregulation varied across the country. Gaunt (1996) considered the impact of taxi deregulation on small urban areas (populations of less than 100,000) in New Zealand in relation to taxicab numbers and fares. Gaunt's findings are summarised below:

- The impact of deregulation on taxicab numbers and fares in the smaller urban areas of New Zealand was different from the experience of the four largest cities.
- The smaller towns saw little, if any, change in the number of taxis.
- Medium sized cities and towns saw only modest falls in fares in real terms , and the smallest towns actually experienced modest real increases in fares.
- Based on the evidence, fare changes post deregulation appear to be related to population rather than the number of competing taxi companies.

The Tasmanian taxi market

Population

The following table compares population and unemployment for each Australian State. It highlights the small and declining population base of Tasmania. It is also important to note that Tasmania's population is more widely dispersed than that of the other states.

	Tas	NSW	Vic	Qld	SA	WA
Population ('000), Dec 1998	471.1	6,384.3	4,689.8	3,485.2	1,490.4	1,847.8
Pop. Growth rate (%), 12 months to Dec 1998	-0.3	1.3	1.3	1.7	0.5	2.0
Unemployment rate (trend series) (%), July 1999	9.4	6.3	7.6	8.1	8.1	6.5

Note: Tasmania had experienced a relatively moderate level of population growth prior to 1996. Since 1996 the population growth has been static with periods of population decline.

In recent years the unemployment rate in Tasmania has been generally been the highest of the States at around 10 to 11%

Taxi market

Taxi numbers and population for selected cities

	Hobart	Sydney	Melbourne	Brisbane	Adelaide	Perth	Auckland	Wellington
Standard taxis	209	3933	3247	1448	920	922	2970	1150
Accessible taxis	1*	330	84	99	69	46	30	22
Total taxis#	210	4535	3331	1547	989	1038	3000	1172
Population	195	3987	3371	1575	1088	1342	1024	320
Taxis per 1,000 population	1.12	1.14	0.99	0.98	0.91	0.77	2.93	3.66

Notes: # includes peak availability taxis

* there are also 17 accessible vehicles licensed as Special Purpose Cabs that provide 'taxi' style transport for wheelchair users

Source: Review of the TaxiCab and Hire Car Industries – Interim Report, Independent Pricing and Regulatory Tribunal of New South Wales, August 1999

- Tasmania has just under 400 taxi licences Statewide with just over 50% located in the Hobart area. In contrast, NSW has 5500 taxi licences with over 80% located in Sydney and similarly over 80% of Victoria's 3808 taxi licences are located in Melbourne.
- The Tasmanian taxi industry has a significant proportion of taxis owned and driven by the licensee, with the assistance of 1 or 2 drivers. It is estimated that in Hobart around 60 per cent of taxi operated as 'owner/drivers' while the corresponding figure for Launceston is around 70 per cent. Generally, in all other areas of Tasmanian the proportion of 'owner/drivers' is higher.
- In Sydney approximately 50 per cent of taxi are operated as 'owner/driver'.
- In Sydney, on average, a taxi generates revenue of around \$19.00 per hour.

Airport activity 1996-97

	Hobart	Melbourne	Sydney	Canberra	Perth	Adelaide	Brisbane
Total pax trips	841,222	13,417,075	20,678,970	1,734,718	4,484,295	3,767,962	9,682,335
Pax trips per day	2,305	36,759	56,655	4,753	12,286	10,323	26,527

Note: the NSW Review of the Taxi Cab and Hire Car Industries noted that approximately one third of airline passengers used taxis to travel to or from the airport. The Report also noted that transport for Sydney airport users accounted for 25 per cent of all taxi trips in Sydney.

- Tourism is one area where Tasmania has experienced steady growth in recent years. In 1998 it is estimated that Tasmania received just over 500,000 visitors.

Appendix E: Summary of public consultations

A total of 29 written submissions were received in response to the Discussion Paper. The break down written submissions was:

Respondent	Number
Taxi Industry	18
Hire Car Industry	7
Users/Consumers	2
Other	2
Total	29

The Review Group also met separately with the Taxi Industry Association of Tasmania Ltd and the Tasmanian Luxury Taxi, Hire Car & Limousine Association prior to the close of submissions to provide information and clarify issues regarding the Review.

In general, the issues raised by each of the groups outlined above can be summarised as follows:

Taxi Industry

Submissions to the Review from the taxi industry mainly comprised licence owners, owner/operators or management companies. The Review also received a submission from the Taxi Industry Association of Tasmania and the Tasmanian Luxury Taxi, Hire Car & Limousine Association. No respondent identified himself or herself as a driver only. The key issues were as follows:

- Oversupply of taxis leading to low returns to operators and drivers. Drivers are required to work long hours to make a reasonable return.
- Perpetual licences provide security and encourage long term investment in the industry.
- The number of licences should be controlled and linked to market demand ie. population, response time etc.
- The 'capped value' is not a good mechanism for determining number of licences.
- Taxis are not a suitable place to negotiate fares.
- The current fare setting mechanism is too slow to respond to changing cost structures.
- Potential for hire car industry to undertake taxi work.
- The luxury hire car licence (\$5,000) is too low.

Hire Car Industry

Response from the hire car industry came generally from current public vehicle licence holders with conditions for general hire car work or restricted to wedding car hire. The key issues were as follows:

- Licensing is required as means to control the industry.
- Luxury hire car operators should be required to meet quality accreditation standards such as the International Standards Organisation.
- Wedding cars should be licensed together with luxury hire cars under the same Act.
- The luxury hire cars should be of a premium quality.
- The legislation will lead to 'fly-by-nighters' entering the industry who will undermine existing operators at the cost of quality standards.

Users/Consumers/Other

The Review only received four submissions from people who could be identified as being outside the taxi and luxury hire industries. One submission was made from a wheelchair user. The key issues were as follows:

- Quality and availability of wheelchair accessible vehicles are not of an equivalent standard to that of 'mainstream' taxis.
- Drivers should be trained to understand needs of particular user groups, ie people with disabilities.
- That the present regulatory structure controlling the taxi industry has resulted in a high cost/high quality transport which is not readily accessible to a large section of the community. Regulatory control should focus on achieving a more open, competitive, and community-based transport industry that can better meet the broad range of personal transport demands.
- Taxis should not use public streets for 'lay-over' or cleaning purposes.

Further consultation with users/consumers of taxis and hire cars

Given the low level of response to the Review from users of taxis and hire cars the Review Group felt it would be useful to seek information specifically from this stakeholder group. In this regard 11 phone surveys were conducted with businesses and peak groups around Tasmania in relation to the Discussion Paper. The main findings were as follows:

- Regulated fares are a benefit to the tourism industry because tourists would be at a disadvantage if required to negotiate because they lack local knowledge.
- Large users would like the opportunity to negotiate a fare structure with particular companies.
- Tasmanian taxis are of high standard compared with mainland taxis.
- Generally, waiting time for a taxi is not a problem in Tasmania, however, there are insufficient numbers of multipurpose 'accessible' taxis.

Appendix F: Vehicles eligible to be luxury hire cars if they pass inspection and their maximum age

Column 1	Column 2
Vehicle	Maximum Age
Group 1	
Ford Fairlane Ghia Ford LTD Holden Caprice Holden Statesman Mazda 929 Volvo 960, s90 and V90	7 years
Group 1A	
Stretched or modified version of Group 1 vehicles	12 years
Group 2	
BMW Series 7 Cadillac Daimler Jaguar Mercedes Series 230 and above Toyota Lexus LS 400	15 years
Group 2A	
Stretched or modified versions of Group 2 vehicles	-
Group 3	
Bentley Rolls Royce	-