

REGULATORY IMPACT STATEMENT

TRANSPORT (TAXI-CABS) REGULATIONS 2005

**Prepared for the Department of Infrastructure
Victoria**

Transport Legislation Review Project

by

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REGULATORY IMPACT STATEMENT

FOR

TRANSPORT (TAXI-CABS) REGULATIONS 2005

Agency/Department:

Department of Infrastructure

Officer authorising statement:

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Designation:

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Signature:



Statement prepared by:

Economic Associates Pty Ltd

HAVING YOUR SAY

This Regulatory Impact Statement is prepared in accordance with the requirements of the *Subordinate Legislation Act 1994*. Its purpose is to explain the likely impact of the proposed regulations and to inform and facilitate the process of public consultation.

Among other things, the Statement assesses the benefits and costs of the proposed regulations and other feasible alternative means of achieving the same objectives. It concludes that the benefits of the proposed regulations are likely to outweigh the expected costs.

Further copies of the Regulatory Impact Statement and the proposed regulations may be obtained from John Gillespie of the Department of Infrastructure, phone 9655 6033 or by email request through john.gillespie@doi.vic.gov.au or downloaded from the Department's website at: www.doi.vic.gov.au.

Written submissions are invited from any interested industry, stakeholder or community group and from the public in relation to any matter relevant to the proposed regulations.

Submissions must be received by 5.00 pm on 15 June 2005.

Submissions should be marked **Transport (Taxi-Cabs) Regulations 2005**

– **Submission** and addressed to:

John Gillespie
Statutory Legal
Public Transport Division
Department of Infrastructure
80 Collins Street
Melbourne Vic 3000

Please note that all comments and submissions will be treated as public documents.

TABLE OF CONTENTS

1	OVERVIEW	4
1.1	Background	4
1.2	Objectives of the proposed Regulations	4
1.3	Nature of the problem being addressed	5
1.4	Affected parties	5
1.5	Main costs and benefits	5
1.6	Why other means of achieving the objectives are not appropriate	6
2	NATURE AND EXTENT OF THE PROBLEM	7
2.1	Background	7
2.2	Regulatory problems	9
2.3	The case to regulate	11
3	OBJECTIVES OF THE PROPOSED REGULATIONS	14
4	NATURE AND IMPACT OF THE PROPOSED REGULATIONS	15
4.1	Legislative Authority	15
4.2	The Proposed Regulations	15
4.3	Discretion in the proposed Regulations	20
4.4	Affected Parties	20
4.5	Enforcement of Proposed Regulations	21
4.6	Consultation	21
4.7	Planned consultation	23
5	COSTS AND BENEFITS OF PROPOSED REGULATIONS	24
5.1	Costs	24
5.2	Benefits	27
5.3	Net benefit of the proposed regulations	30
5.4	Summary – costs and benefits	30

6	CONSIDERATION OF ALTERNATIVES.....	32
6.1	Alternative 1 No regulation	32
6.2	Alternative 2 Co-regulation.....	34
6.3	Alternative 3 Driver certification period of up to five years	34
6.4	Comparison of alternatives	36
7	COMPETITION TEST	38
	APPENDIX ONE: COMPETITION ASSESSMENT	39
	APPENDIX TWO: REFERENCES	40
	APPENDIX THREE: THE PROPOSED REGULATIONS	42

1 OVERVIEW

1.1 Background

This regulatory impact statement (RIS) has been prepared to fulfil the requirements of the **Subordinate Legislation Act 1994** and to facilitate public comment on the proposed Transport (Taxi-Cabs) Regulations 2005 ('the proposed Regulations').

Under the **Subordinate Legislation Act 1994**, the introduction of all new or remade regulations or addition to current regulations is required to be accompanied by an evaluation that allows for analysis and public scrutiny of the proposed regulation changes. This evaluation, known as a Regulatory Impact Statement (RIS), must conform to a number of legislative requirements, and cover issues including:

- The nature and extent of the problem;
- The policy objectives of proposed solutions to the problem;
- The case for regulation;
- The authorising legislation, objectives, nature and effects of the proposed Regulations;
- Stakeholder consultation;
- Alternatives to the proposed Regulations;
- Cost-benefit analysis of the proposed Regulations and alternative policy options; and
- National Competition Policy tests.

The Transport (Taxi-Cabs) Regulations 1994 sunsetted in 2004 and were extended for an additional year under the **Subordinate Legislation Act 1994**. They will now lapse on 27 June 2005.

The Transport (Taxi-Cabs) Regulations 2005 need to be remade on an interim basis for a three year period because of the changes likely to result from a current review of transport legislation.

1.2 Objectives of the proposed Regulations

The objectives of these Regulations are to prescribe measures intended to enhance passenger and driver safety and the reliability and quality of taxi-cab services, including requirements for or in relation to -

- (a) driver certification, conduct and presentation;
- (b) taxi-cab construction, equipment, appearance and operation;

- (c) hirings, the charging and payment of fares and charges and the operation of taximeters;
- (d) the conduct of passengers.

1.3 Nature of the problem being addressed

The proposed Regulations address quality and safety in the provision of taxi-cab services including:

- Difficulty for taxi-cab users in determining service quality and safety
- Exposure of taxi-cab drivers and passengers to risk
- Need for accessibility
- Potential negative externalities for the economy and the region if 'market failures' are not addressed.

1.4 Affected parties

People who hold or are assigned taxi-cab licences, who drive taxi-cabs or who hire taxi-cabs and people who use taxi-cabs are likely to be affected by the proposed Regulations. People who drive taxi-cabs outside of metropolitan Melbourne are not required to undergo a driver training course.

The industry and its market in Victoria are large, including 4,235 licensed taxi-cabs, 26,000 certificated taxi drivers (of whom 13,000 active drivers including 10,000 in metropolitan Melbourne and 3,000 in regional areas), 27 million annual hirings and 47 million annual passengers. Taxi-cab fare revenue is estimated to be \$400 million per year.

1.5 Main costs and benefits

The main costs associated with the proposed Regulations are expected to be:

- Agency costs (Victorian Taxi-cab Directorate or VTD) \$1.8 million annually
- Taxi-cab operators (including licence owners and assignees) \$2.8 million annually
- Taxi-cab drivers \$4.7 million annually.

Approximately 15% of industry compliance costs would be incurred by taxi-cab owners/operators and drivers in regional areas.

In terms of benefits, the proposed Regulations obviate or significantly reduce the need for dispute settlement processes in the industry, including disputes between drivers and passengers. In the absence of the proposed Regulations disputes could arise over a diversity of issues including driver presentation and behaviour, passenger behaviour, acceptance of hirings, pick up points, choice of route, method of fare collection and the like. The proposed Regulations also assist the Government in ensuring that taxi-services are widely available and that the safety of passengers and drivers is protected.

Valuing the benefits in monetary terms is difficult because unregulated taxi-markets are rare. However, on a per hiring basis, benefits would need only be \$0.35 per hiring for the costs of the proposal to be covered (or about 2% of the value of the average fare).

1.6 Why other means of achieving the objectives are not appropriate

The taxi industry is widely recognized in Australia and internationally as having characteristics that necessitate regulation of quality and safety (including high search costs and uncertainty about product quality). Regulation of fares under other legislation enhances the desirability of quality and safety regulation (because with regulated fares intending passengers are unable to trade off the possibility of poor product quality against low fares).

2 NATURE AND EXTENT OF THE PROBLEM

2.1 Background

2.1.1 Structure of the Taxi-cab industry¹

The Victorian taxi-cab industry operates through a pool of 4,235 taxi-cab licences, with one taxi-cab per licence. Metropolitan licences account for 83% of all licences (3,529 including 206 wheelchair-accessible) and 17% are held in the country (706 including 83 wheelchair-accessible).

Victorian taxis undertake 27 million trips per annum carrying 47 million passengers, with an average trip length of 10 km. The average fare (10 km day time trip) in Melbourne is \$18.80 (Brisbane \$18.70, Sydney \$19.90). The annual fare revenue is estimated to be \$400 million with 53% of business being from private trips, 30% from business trips and 17% from trips made by tourists.

There are 26,000 certificated taxi-cab drivers in Victoria, of whom 13,000 are active drivers (10,000 in Melbourne and 3,000 in regional areas). Drivers are estimated to earn \$7.50–\$8.00 per hour.

Licence owners (investors) purchase taxi-cab licences, generally through industry brokers. Metropolitan licences have a current market value of \$343,750. This does not include the value of the vehicle. Owners can hold multiple licences. Forty per cent of licence owners also operate taxi-cabs.

More than 60% of licence owners do not operate the licences they own. They assign (lease) them to an assignee (lessee) who purchases, maintains and operates the taxi-cab and delivers the service. The annual assignment (lease) charges are typically in the order of \$24,000 per annum and are a major financial cost for operators. Government does not regulate assignment fees. Typical assignment periods range from 12 to 36 months and assignments are usually arranged through the same brokers who buy and sell licences.

Over the last seventeen years, the number of licences that are assigned has increased dramatically. Many licence-holders are using their licence as a long-term investment. The sale of licences and the assignment (leasing) of licences is normally managed through brokers and taxi-cab depots.

While many operators drive their own taxis, many also engage drivers to cover shifts they are unable to cover themselves. Taxi fleet operators engage large numbers of drivers. Such engagements require the driver and the operator to sign an industry Bailment Agreement.

A Bailment Agreement allows a taxi to be hired to a driver for an agreed period on agreed conditions. Drivers are not employees and are more akin to sub-contractors. The Bailment Agreement provides for fare revenue collected by the driver to be shared, generally on a fifty-fifty basis, with the taxi-cab operator.

¹ All industry data from DOI website

Taxi-cab operators are required to operate their cabs from depots authorised by the Government because:

- The depots provide a centralised booking and dispatch service for customers. More than 50% of taxi-cab services are pre-booked through this system.
- This system provides a safer work environment for drivers. The location and movement of each cab can be monitored by the depot while it is in service using a Global Positioning System (GPS).

The fleet of wheelchair-accessible taxis (WAT) across Victoria has increased from 80 in 1985 to 289 in 2004. The majority are operated by owner-drivers. WATs are required to operate through depots which provide a dedicated wheelchair-accessible taxi booking service.

Their licence conditions allow WATs to carry other passengers when not engaged with wheelchair bookings. While obliged to give priority to wheelchair bookings, the viability of WATs in many cases depends on their being able to service general users in addition to wheelchair bookings.

People using wheelchairs make 500,000 taxi trips per annum. The wheelchair-accessible fleet consists of taxi-cabs equipped to carry one wheelchair and up to four other passengers, or two wheelchairs and up to six other passengers.

2.1.2 Regulation of the taxi-cab industry

The regulation of the taxi-cab industry in Victoria is similar to that in most states and territories. The regulatory regime has two broad elements:

- Quality and safety regulation
- Economic regulation

Quality and safety regulation covers minimum standards of service quality and safety including such aspects as roadworthiness of the vehicle and driver presentation. The proposed Transport (Taxi-Cabs) Regulations 2005 are quality and safety regulations.

Economic regulation centres on the restrictions on entry to the industry imposed by regulation. Restrictions to entry have been the subject of much assessment and debate in recent years.² The restriction on the number of licences, regulation of fare levels and regulation of demarcation between taxis and hire cares are the major elements of economic regulation.

The proposed Transport (Taxi-Cabs) Regulations 2005 do not address economic regulation matters. The requirement that taxi-cabs be operated from depots authorised by the Government is also a matter outside the scope of the proposed Regulations.

² For example, Productivity Commission, *Regulation of the Taxi Industry*, Commission Research Paper, 1999; Queensland Transport, *NCP Review of the Transport Operations (Passenger Transport) Act 1994*; Independent Pricing and Regulatory Tribunal of New South Wales, *Review of the Taxi cab and Hire Cab Industries*, Final Report, 1999.

The proposed Transport (Taxi-Cabs) Regulations 2005 address a number of problems in the use of taxi services.

2.2 Regulatory problems

2.2.1 Difficulty of users in determining quality and safety

An intending taxi-cab passenger must accept the quality and safety of the service without having the opportunity to make an assessment of competing taxi driver or taxi vehicle options. Both the phone and street markets for taxis exhibit these characteristics but less so in the phone market in which the intending passenger can make at least some comparison between depots before placing a booking. Potential passengers cannot determine the quality of the service until they have travelled in that taxi-cab. Customer service problems are difficult to predict merely by inspecting a taxi, as many problems are related to driver knowledge and behaviour.

Users have limited choices at ranks and when hailing a taxi, making it difficult for them to assess quality, safety and value for money. The time available to choose a taxi and the consequences of assessing options for services limit the potential for open competition in taxi services on the basis of quality and safety. For example, major city airports need to load taxis rapidly in order to clear queues and minimise waiting and travel time. The final report of the NSW Independent Pricing and Regulatory Tribunal into the taxi industry notes:

Although other ranks may be less hectic, the time taken by each customer to inspect and negotiate with taxis is a cost in waiting time to other passengers in the queue and to the waiting taxis. This problem is particularly significant when the decision to take a taxi rather than some other mode of transport is based on time, urgency, and convenience.

Time is also at the root of the difficulties associated with achieving effective competition in the street hail market. Passengers are often in a hurry and will accept the first passing taxi. Even for passengers not in a hurry, time spent waiting for a taxi is costly. Naturally, they would prefer to take a taxi sooner rather than later and may not pass up a taxi if they are uncertain when another will pass by.

Experience in US cities suggests that individual taxis serving only the street hail market are unlikely to offer a better or cheaper service in the hope of attracting more custom. They know that passengers have difficulty checking the quality and price of cruising taxis.³

As reported in section 4.5 of this RIS, only 1,239 complaints were made to VTD by members of the public in 2004 (equal to about one complaint for every 22,000 hirings). This low level of complaint suggests the current Regulations (to which the proposed Regulations are similar) to have been effective in facilitating the operation of the taxi market, in particular the transactions between passengers and drivers.

2.2.2 Exposure of drivers (and passengers) to risk

Taxis are a common carrier form of public transport required to provide a universally available service across their area of operation. Taxi drivers are obliged, subject to safety, to accept all hirings and may obtain hirings from telephone bookings, ranks or street hails. The nature of the service and the hours of operation expose taxi drivers to considerable risk. Mayhew in her study of taxi driving reports that:

³ NSW, *op.cit.*, pp7-8.

Taxi driving in Australia is generally seen to be a high risk occupation. Preferred robbery targets have shifted from the banks to all night chemists, service stations and taxis because the workers are alone, vulnerable, unprotected and comparatively “easy prey” for theft, fare evasion, vandalism and even murder.⁴

Recent evidence about levels of risk to drivers and passengers is unavailable, but evidence from a late-1990s survey in Victoria and from late 1990s and early 2000s research elsewhere in Australia generally point to the levels of personal safety risk facing taxi drivers (see section 5.2.2 of this RIS).

2.2.3 Need for Accessibility

Accessibility to taxi services, especially for those with impaired mobility (including those disabled passengers who use and wish or are required to remain in their wheelchairs), is important if their independence is to be maximised.

Ensuring that taxis are obliged to provide services to disabled or impaired customers is required for equity and accessibility standards to be met. Deregulation of this aspect would provide little incentive for the supply of special purpose taxis and for drivers to service this part of the market. The relative infrequency of complaints to VTD about wheelchair access (47 complaints out of around 500,000 hirings in 2004; see section 4.5) points to the likelihood that the current Regulations have been effective in this regard and that the proposed Regulations would be similarly effective.

2.2.4 Negative externalities for economy and region

A poor quality and unreliable taxi industry creates negative externalities for the area in which they operate.

Conversely, a safe, efficient and high quality taxi industry can create value for an economy or a region particularly through services to business, tourist, convention, hospitality and special events industries. The quality and efficiency of local taxi services can have a significant and lasting effect on visitors and event organisers. The NSW Independent Pricing and Regulatory Tribunal report states:

Taxis are one of the first and last experiences tourists have in a city. The impression they have of the city will be profoundly influenced by the price, quality and availability of that service. That impression will form a key part of the city’s reputation as a tourist destination and business location. Consequently, there is benefit in regulating service quality if the level of service quality that would otherwise prevail would not satisfy tourists’ expectations.⁵

The Transport (Taxi-Cabs) Regulations 2005 contain provisions that deal with each of these problems.

⁴ Mayhew., C, in Mayhew., C., and Peterson., C., L, *Occupational Health and Safety in Australia: Public Sector and Small Business*, p.131, 1999.

⁵ NSW, op.cit. p.8.

2.3 The case to regulate

The typical justifications for regulation are:

- The proposed Regulations provide consumer protections not able to be provided in an unregulated market;
- The inability of users to effectively assess and choose services in a competitive market requires assurance of quality and safety standards;
- Negative externalities can be minimised by regulation of quality and safety standards;
- Accessibility and equity standards require a level of government intervention;
- Quality and safety regulations provide a safety net for any decisions to reduce economic regulation (not applicable here.)

The relevance of each of these criteria to taxi-cab services is discussed below.

2.3.1 Consumer protection

Being unfamiliar with individual taxi drivers or with the local geography, passengers could be vulnerable in the absence of regulation in nomination of route, calculation of fare, method of payment, handling of luggage and the like. Vulnerability may be heightened at busy times and places or late at night. Effective resolution of driver-passenger disputes is unlikely to be feasible at the time and place of sale and given the numbers of transactions and service providers involved, post-dispute resolution could also be costly for those involved and for the justice system.

2.3.2 Competition as a protection

The scope for consumer protection through competition between taxis is limited because the market is not amenable to search behaviour (particularly in the hail and rank markets) and individual taxis do not face the threat of loss of reputation and business as a result of poor treatment of individual passengers or the provision of an unsafe taxi.

2.3.3 Negative externalities

Poor driver behaviour or poor taxi quality (in terms of taxi safety, general condition and cleanliness) will reflect on the industry generally rather than on individual owners/operators or drivers. The effects are potentially a loss of image for Victoria among visitors, and a reduced attractiveness for taxis as a mode of public transport. For trips for which taxi is the most efficient mode, that loss of reputation could result in some users making their preferred trips using more costly modes or combinations of modes or perhaps (for residents) not making the trip at all. (In this context, cost includes time cost as well as out of pocket costs such as petrol, parking and public transport fares.)

2.3.4 Accessibility and equity

In the absence of regulation, taxi drivers might be inclined to refuse specific users or user groups or concentrate service in the densest, most profitable markets at the most profitable or least costly times of day. The proposed Regulations are intended to ensure that taxi-service is available to the community generally.

Previous investigations of the taxi market support these arguments as the following extracts show:

Productivity Commission Report 1999

At present, the broad framework of taxi safety and quality-related regulation across jurisdictions in Australia is similar, other than in the Northern Territory (which has largely deregulated the industry). It encompasses regulation aimed at:

- consumer safety (for example, roadworthiness tests, maximum vehicle ages and driver training requirements);
- driver safety (for example, the provision of protective screens and in-cab cameras); and
- improving service quality (for example, tests of drivers' character, English language capability and geographical knowledge, and cab and driver presentation requirements).

The Commission supports the broad thrust of these current regulatory arrangements.⁶

Queensland Transport NCP Review of the Transport Operations (Passenger Transport) Act 1994

The evidence from overseas makes it clear that vehicle standards and driver standards are lower after deregulation than under regulated regimes. The review committee is of the strong opinion that reductions in quality of both vehicles and drivers would result if both entry and price were deregulated without either minimum standards regulation or some other form of regulation that would ensure minimum standards were adopted. The impact of deregulation on standards should be recognised in any analysis undertaken in relation to the taxi industry.⁷

National Competition Council Staff Discussion Paper 2000

There is a clear case for regulating quality standards in the industry on consumer safety and protection grounds. Such regulations address information deficiencies such as the consumer's inability to verify the safety of the taxi himself and provide enhanced levels of safety and, hence, of consumer confidence in the industry. Regulation of quality standards has been tightened in a number of states in recent years in response to community demands. Regulation of quality standards can achieve benefits in terms of safety, reliability and consumer confidence while imposing limited costs, as it does not materially restrict competition.⁸

NSW Independent Pricing and Regulatory Tribunal report

The reason for regulating regarding customer service and vehicles is to ensure that a minimum quality standard is maintained. Current regulation of driver standards and vehicle quality appears to deliver a level of service which meets the expectations of the majority of taxi passengers.

Regulating minimum standards creates benefits for taxi passengers in that they need not inspect the quality of a taxi before hiring it. It also benefits drivers by preventing poorer quality vehicles from reducing the overall demand for taxi services. Where regulation is

⁶ Productivity Commission, op.cit, p.10.

⁷ Queensland Transport *NCP Review of the Transport Operations (Passenger Transport) Act 1994*, p.108

⁸ National Competition Council, *Reforming the Taxi Industry in Australia*, Staff Discussion Paper, prepared by Rex Deighton Smith, 2000, p.2.

successful in maintaining a high quality taxi fleet, this also benefits Sydney's business and tourist community.

The Tribunal considers that it is necessary to regulate customer service and vehicle standards for the hail and rank taxi market. Hence, the Tribunal supports continued regulation and monitoring of customer service and vehicle standards.⁹

Office of Fair Trading United Kingdom 2003

We believe that there is a strong case for regulating quality and safety both for taxis and PHVs. First, consumers cannot judge certain standards such as the safety of the vehicle and the competence of the driver when getting into a taxi or PHV. These regulations therefore provide essential protection for consumers. Secondly, taxi services can have a role to play in broader social welfare policy such as ensuring greater accessibility or environmental improvements and LAs should consequently be able to apply quality and safety regulations to suit their needs.¹⁰

⁹ NSW, op. cit., p.50.

¹⁰ Office of Fair Trading, *The regulation of licensed taxis and PHV services in the UK*, 2003, p.7.

3 OBJECTIVES OF THE PROPOSED REGULATIONS

The objectives of these Regulations are to prescribe measures intended to enhance passenger and driver safety and the reliability and quality of taxi-cab services, including requirements for or in relation to -

- (a) driver certification, conduct and presentation;
- (b) taxi-cab construction, equipment, appearance and operation;
- (c) hirings, the charging and payment of fares and charges and the operation of taximeters;
- (d) the conduct of passengers.

4 NATURE AND IMPACT OF THE PROPOSED REGULATIONS

4.1 Legislative Authority

The proposed Regulations are made under sections 162 and 256 of the **Transport Act 1983** ('the Act').

4.2 The Proposed Regulations

The proposed Regulations can be set out under a number of broad headings:

- Driver certification, behaviour and presentation
- Passenger safety and quality assurance
- Vehicle specifications and maintenance
- Driver protection and emergency response

4.2.1 Driver certification, behaviour and presentation

Regulation 12 sets out requirements for licence holders to keep their licence up to date. **Regulations 6, 7 and 8** require that taxi drivers have a driver's certificate which may be issued for a period up to three years¹¹, but the applicant for a certificate may be required to produce a medical certificate and a certificate that they have passed the test of acuteness of vision set out in schedule 1. The latter certificate may be provided by a legally qualified medical practitioner or an optometrist. An applicant may also be required to pass a test or hold a qualification relating to their fitness to drive a taxi-cab. Holders of drivers certificates must have a full licence to drive a motor vehicle for the duration of the period of the certificate and must display a driver's photo card or recent colour photograph (if a driver's card is not available) in any taxi-cab that they are driving¹². If the holder of a driver's certificate changes their address, they must notify the licensing authority within seven days of the change of address.¹³ **Regulation 8** allows the licensing authority to photograph or make a

¹¹ The Victorian Taxi Directorate regards three years as the maximum appropriate elapsed time for re-confirming the medical, eyesight and probity status of driver's authorised to carry public passengers. A longer interval of say five years would reduce driver's costs in re-applying for certification but at the risk that the certification process would not identify drivers who presented health, safety or probity risks. Section 6 of this RIS discusses the alternative of a five year currency period for driver certificates.

¹² In **Regulation 5**, a 'driver's photo card' means a card issued to a holder of a driver's certificate which incorporates a photograph or digitised image of the driver certificate holder obtained by the licensing authority under **Regulation 8(1) or Regulation 9(1)**, the number of the holder's driver's certificate and the date on which the holder's driver's certificate expires. **Regulation 9** provides for additional arrangements in respect of current driver's certificates.

¹³ VicRoads requires all drivers to give notification of change in address within 14 days. VTD believes a seven day notification period to be appropriate and enforceable given: (i) the professional status of taxi drivers; (ii) the right the driver's certificate accords to taxi drivers to carry people who are unacquainted with them; and (iii) because passengers have a right to be assured that the licensing authority has up to date information about the drivers it has certificated.

digitised image of a driver's certificate holder for the purposes of making the driver's photo card. The form of the photograph and its position in the taxi-cab are subject to the approval of the licensing authority. A licence holder must not allow an uncertificated person to drive a taxi-cab unless the person is testing the taxi-cab or is participating in taxi driver training or assessment (**Regulation 11**).

Regulation 13 requires the operator to keep books or records of the taxi-cab's revenue, distance travelled, number of hirings, details of persons who have driven the taxi-cab including driver licence and driver certificate numbers, and any other records the licence holder is required to keep as a condition of the licence. The records must be kept, in English, at an approved address, for a period of at least three years and must be available for inspection on demand by a police officer, the licensing authority or a person approved by the licensing authority.

Regulation 29 requires the driver to take the passenger to where the passenger wishes to be taken by the most direct practicable route unless the passenger nominates another route, in which case the driver is required to take the passenger's nominated route.

The driver must generally stay with the taxi-cab (**Regulation 30**), and must wear a uniform approved by the licensing authority or determined by the operator of the driver's taxi depot (**31(1)**). The operator of the taxi-driver's taxi depot is required by **Regulation 32** to determine a uniform for drivers affiliated with the depot and apply to the licensing authority for approval of the uniform. The driver must be neat and clean while on duty (**Regulation 31(2)**). Smoking of tobacco or any other substance in a taxi-cab (by any person) is prohibited (**Regulation 46**). A taxi-cab driver must not allow an animal other than the guide-dog of a sight or hearing impaired person to be brought into a taxi-cab and must accept the guide-dog of a passenger with a sight or hearing impediment (**Regulation 33**). A taxi driver must operate the taxi-cab's air conditioning or heating as requested by the passenger although the level of air conditioning or heating must not be such as to cause unreasonable discomfort to the driver. In addition a driver is required to comply with any requests made by the passenger to turn the taxi-cab's music system or radio off or down (**Regulation 34**). **Regulation 35** requires that the driver stop the taxi-cab as close as is practical and permitted by law to where the passenger wishes to be picked up or set down.

Regulation 36 allows a driver to refuse to carry a passenger under certain circumstances except if the passenger is going to be or is being taken to a hospital, a police station or a watchhouse. A taxi-cab driver must give reasonable help to get passengers and their luggage into and out of the taxi-cab and must take reasonable care with their luggage (**Regulation 37**). **Regulation 47** requires that lost or abandoned property in a taxi-cab be given to the taxi-cab driver who must deliver the property to Victoria Police if it is not claimed.

4.2.2 Passenger behaviour, safety and quality assurance

Regulation 38 regulates the use of taxi zones by taxi-cab drivers. Controls include requirements that drivers enter and use taxi zones in order of their arrival, and that drivers move forward with the queue of taxi-cabs. The first driver in a queue is entitled to be hired first but the intending passenger is entitled to hire a driver other than the driver who is first in the queue. **Regulation 39 to 43** relate to the payment of taxi-cab hire charges including the method of payment (including credit cards, debit cards or EFTPOS), the issuing of receipts, multiple hiring, and detention rates. This regulation includes provisions allowing a driver to obtain verification in advance of the journey that the passenger has enough money to pay for the journey and to refuse to carry the passenger if the passenger fails to demonstrate that they

are able to pay for the journey. The hirer must pay the fare and any additional charges in full at the termination of the hiring unless the operator and hirer agree to a later payment.

4.2.3 Vehicle specifications and maintenance

Regulation 14 empowers the licensing authority to determine and publish in the Government Gazette specifications with which taxi-cabs must comply. The licensing authority may exempt a taxi-cab from complying with any of those specifications. A taxi-cab may not be modified without the approval of the licensing authority (**Regulation 15**)¹⁴. **Regulation 23** requires a taxi-cab operator to attach any sign, symbol, label or notice to the taxi-cab in the manner and location specified by the licensing authority and ensure that the sign, symbol, label or notice is clearly visible at all times. Any other attachments, to the inside or the outside of a taxi-cab must be approved by the licensing authority. **Regulation 24** requires that a taxi-cab, when operating, display (in a manner approved by the licensing authority) the name, trade mark or trade name and telephone number of the depot from which it operates and that an operating taxi-cab be painted in a colour or colours as approved by the licensing authority.¹⁵

An operating taxi-cab must be fitted with a roof mounted sign which must be turned off when the taxi-cab is not for hire (whether because the taxi-cab is already hired, or because the taxi-cab is en route to pick up a passenger, or as a condition of licence, or because the taxi-cab is otherwise not available for hire) (**Regulation 25**). An operating taxi-cab which is permitted under the conditions of its licence to operate more than one taximeter tariff must be fitted with two amber tariff indicator lamps (attached to the taxi-cab's roof sign) which are operated such as to show whether the taxi-cab is hired and in addition whether it is being hired according to a rate other than Tariff 1 of the hiring rates set out in the conditions of the licence. The taxi-cab must not be operated unless the tariff indicator lamps are operating (**Regulation 26**). An operating taxi-cab must also display a 'NOT FOR HIRE' sign in a form approved by the licensing authority and displayed from the inside left front of the windscreen facing outwards but not attached to the windscreen. The sign must be displayed when the taxi-cab is not for hire (whether because the taxi-cab is already hired, or because the taxi-cab is en route to pick up a passenger, or as a condition of licence, or because the taxi-cab is otherwise not available for hire). The driver must not accept any hiring when the NOT FOR HIRE sign is displayed (**Regulation 27**).

Regulation 20 requires that a taxi-cab when operating be fitted with a properly working air conditioner.

¹⁴ Regulation of the specifications and equipment in or on taxis is aimed at (i) consistency in the product delivered to the public – consumers are guaranteed a vehicle that meets minimum access and internal space dimensions for comfort – intending passengers to not have to shop around to reach a taxi that meets their needs. Failure to regulate could result in an unsuitable vehicle being dispatched to a booking (for example) frail, elderly people being dispatched a two-door coupe vehicle; and (ii) ensuring fittings and attachments are approved for vehicle occupant protection purposes and occupational suitability. Failure to regulate could result in a variety of inappropriate and potentially dangerous fittings being installed in public access vehicles.

¹⁵ Regulation 23(1) to (3) relates to mandatory signs and notices which are necessary to identify the taxi-cab to intending hirers and to provide essential information such as hiring rates, passenger and driver rights and responsibilities, operation of the security camera and the like. Regulation 23(4) encompasses a requirement to obtain approval for advertising, and a general prohibition of inappropriate, unauthorised or dangerous fittings or other material.

Regulation 21 empowers the licensing authority to require that a taxi-cab be inspected and that any matters identified in the inspection be rectified. The taxi-cab must not be operated until the matters have been rectified.

Interference with the equipment in a taxi-cab is prohibited (**Regulation 22**).

The driver must ensure that the number of passengers carried in the taxi-cab must not exceed the number specified on the taxi-cab licence (**Regulation 28**).

Regulation 44 requires that a taxi-cab be fitted with a taximeter which has been tested and sealed by a person authorised by the licensing authority. The driver must not operate the taxi-cab unless the taximeter is operational, readable and all its seals are intact. A person authorised by the licensing authority may require a taximeter to be inspected. **Regulation 45** regulates operation of the taximeter including specification of when the taximeter must not be operated, when it must be started and when it must be stopped.

4.2.4 Driver protection and emergency response

A taxi-cab must be equipped with an emergency warning device approved by the licensing authority and must not be operated without such a device. The operator of a taxi-cab may fit any other emergency warning device or devices approved by the licensing authority (**Regulation 16**). A taxi-cab which is required by its licence to be fitted with a security camera or for which fitting of a security camera has been approved by the licensing authority must not be operated if it does not have a security camera fitted and if the security camera is not operating (**17**).

A taxi-cab operator or owner or the driver of a taxi-cab may fit a protective screen inside the taxi-cab but the screen and manner of fitting must be approved by the licensing authority (**Regulation 18**). A taxi-cab must not be operated unless it has fitted a boot lock release device which is operable from inside the boot compartment and cannot be made inoperable from outside the boot compartment (**Regulation 19**).

4.2.5 New measures in the proposed Regulations

Table 1 summarises new measures included in the proposed Regulations.

Table 1 New measures included in the proposed Regulations

Reg	Proposal	Comments
6(2)	Expands the exceptions to the requirement that a taxi-cab be driven by a person with a driver's certificate to include where the driver is being trained or assessed.	Remedies a gap in the existing exception.
8, 9 & 10	Makes provision for a driver's photo card and, to facilitate this, enables an applicant for, or the holder of, a driver's certificate to be required to be photographed at a place and in the manner required and to provide a specimen signature.	Provides for more secure driver identification. Reflects current practice.
7	Requires a driver of a taxi-cab to display his or her photo card while driving.	Complements an existing obligation to display a colour photograph. Provision is made for exemptions.

Reg	Proposal	Comments
8(5)	Reduces the penalty for not returning a driver's certificate in certain circumstances.	To correct an anomaly in the current penalty regime for this offence.
11(2)	Requires an operator to take reasonable steps to ensure that the holder of a driver's certificate does not drive the taxi-cab in contravention of a condition of the licence or a condition of the driver's certificate.	Complements the existing offence of permitting a person who does not hold a drivers' certificate to drive a taxi-cab. It is considered that operators have a responsibility to ensure that a driver does not operate the taxi if the drivers' certificate does not authorise that class of taxi e.g. metropolitan or wheelchair accessible taxi or if taxi licence conditions prevent operation at the time e.g. Peak Service Taxis.
12(1)	Reduces the penalty for not returning a licence in certain circumstances.	Consistent with the proposal in 8(5).
14	Omits the prescribed schedule of specifications and provides instead for specifications for taxi-cabs to be determined by the licensing authority.	The existing schedule applied to pre-1988 vehicles and is no longer required. Much the same ground is covered by standards issued by VicRoads to Licensed Vehicle testers [Reg 611-RS (Vehicles) Regs] for taxi inspection purposes. Specification under 14(3) will overcome any limitations in the coverage or application of the VicRoads standards.
17	Where security cameras are required by licence conditions or permitted by the licensing authority to be fitted, requires the operator to fit and maintain, and the driver to operate, the camera.	Provides legislative support to a measure which is currently imposed merely by licence condition.
19	Prohibits the driver from operating a taxi-cab which is required to be fitted with a boot lock release device if he or she knows the device is not fitted or not able to be operated.	Complements existing obligations on operator to fit such a device.
20	Prohibits the driver from operating a taxi-cab if an air conditioner is not fitted to the taxi-cab or is not working properly.	Complements existing obligations on operator to fit a properly working air conditioner to the taxi-cab.
21	Requires a driver on whom a defect notice has been served to give or send the notice or a copy thereof to the operator as soon as practicable.	Rectifies a gap in the existing Regulation. Aligns with requirements for defect notices issued under Road Safety (Vehicles) Regulations.
25 & 27	Clarifies and makes consistent the obligations of drivers relating to the dome light and the "not for hire" sign which are required to be fitted to taxi-cabs.	
30	Clarifies a driver's obligations to remain with the taxi-cab. The main substantive change is that no provision is made for the driver to leave the taxi-cab in a taxi zone except to assist passengers.	Gives clear effect to intended policy.
31 & 32	Modifies the requirements on drivers to wear uniforms by requiring that they wear the uniform of the depot of the taxi-cab they are driving and to enable depots to be required to determine a uniform and get it	Improves driver and taxi-cab identification and simplifies the approval process.

Reg	Proposal	Comments
	approved.	
	The prohibition against a driver consuming alcohol during a shift has been omitted.	The subject matter of the Regulation is adequately covered by the provision of the Road Safety Act.
33(2)	Requires drivers to carry guide dogs of passengers with a sight or hearing impairment.	Consistent with Equal Opportunity and Anti-discrimination legislation. A refusal may deny the disabled person access to the service.
34	Provides for greater control by passengers of the operation of such things as radios and air conditioners.	Gives legal force to aspects of the Taxi Services Customer Charter.
43(2)	Requires a driver to accept any valid credit or debit card displayed in the taxi-cab as accepted for payment and to use EFTPOS facilities for that purpose if those facilities are installed and online and the card is suitable for that use.	Gives legal force to aspects of the Taxi Services Customer Charter
43(3)	Requires hirer to pay in full the fare and additional charges for a hiring at the termination of the hiring unless later payment is agreed with the operator.	New offence. Supports existing contractual rights. Currently such cases rely on misrepresentation offences. Support is required because of impracticability of civil enforcement.
44(3)	To require that a taximeter must be programmed to record and display only the fares and additional charges allowed under the licence for the taxi-cab.	Remedies a gap in the existing Regulations.
44(8)	Makes it an offence to not comply with a requirement to take a taxi-cab to have the taximeter tested.	Remedies a gap in the existing Regulations. Currently the requirement can be made, but a failure to comply is not made an offence.
45(2), (3) & (5)	Clarifies when a taximeter must be turned on and turned off.	Reflects current policy and licence conditions for wheelchair accessible taxi-cabs.

4.3 Discretion in the proposed Regulations

Many of the Regulations confer discretions on persons to approve things or impose requirements. The exercise of these discretions is constrained by the scope of the **Transport Act 1983**, the scope and objectives of the Regulations and the principles of administrative law.

4.4 Affected Parties

People who hold or are assigned taxi-cab licences, who drive taxi-cabs or who hire taxi-cabs and people who use taxi-cabs are likely to be affected by the proposed Regulations. People who drive taxi-cabs outside of metropolitan Melbourne are not required to undergo a driver training course.

The duties that the proposed Regulations impose on taxi-cab operators and drivers are set out in the preceding section (4.2) of this RIS. The estimated costs of these requirements are set out in section 5.1 of this RIS. The proposed Regulations protect passenger taxi driver safety and set out rules regarding pick and set down areas, charging of fares and driver behaviour

that contribute to passenger comfort, certainty and fair dealing between drivers and passengers.

4.5 Enforcement of Proposed Regulations

The current Regulations are enforced by the Victorian Taxi and Tow Truck Directorate within the Department of Infrastructure. The Directorate issues infringement notices for breach of the Regulations and prosecutes breaches in the courts. A person who is issued a penalty notice under the Regulations can elect to have the matter heard by the Magistrates Court and may appeal a decision from the Court. In the most recent two years a total of 994 infringement notices were issued (529 in 2003 and 465 in 2004). The most prevalent infringements over those two years were for:

- Failure to wear uniform (572 out of 994 or 58%);
- Breach of certificate condition (269 out of 994 or 27%);
- Smoking in taxi-cab (57 out of 994 or 6%);
- Failure to carry passengers (19 out of 994 or 2%).

Twenty-two offences were prosecuted in 2004 of which the most common were failure to wear a uniform (11 or 50%) and breach of certificate condition (7 or 32%).

In 2004, 1,093 complaints were made to the VTD¹⁶ about taxi drivers and 139 complaints about taxi-cab operators or depots. In total the 1,239 complaints represents approximately one complaint for every 22,000 hirings. Frequent complaints against drivers were about behaviour (27% of driver-related complaints) driving infractions (17% of driver-related complaints) and refusing to accept a hiring (15% of driver-related complaints). Approximately half of all complaints (52.5%) about operator or depot behaviour related to quality of service generally, 21% related to vehicle condition and 7% to vehicle being unroadworthy. Of these 1,239 complaints in 2004, 47 complaints out of 500,000 wheelchair taxi hirings related to wheelchair access, including 18 complaints relating to refusal to carry a guide dog in a taxi-cab. The relative infrequency of complaints made to VTD suggests a high level of compliance.

The proposed Regulations being very similar to the current Regulations are likely to be well understood by the industry. This, together the high level of compliance implied by compliance data suggest that compliance with the proposed Regulations is also likely to be high.

VTD will continue to monitor enforcement and complaints outcomes. Recent experience however suggests relatively high levels of compliance with the regulations.

4.6 Consultation

The views of the following organisations were sought on aspects of the regulation of taxi-cab service quality and safety.

- Victorian Taxi Association;
- Victorian Taxi Owners Association;

¹⁶ From VTD complaints database

- Transport Workers Union;
- Victorian Council of Social Service;
- ACROD-National Industry Association for Disability Services.

Stakeholder comments received and the Government's response are set out below.

Table 2 stakeholder comment and Government response

Stakeholder	Stakeholder comment	Government response
Victorian Taxi Association	Would need to see proposed amendments to Regulations in order to make full response.	
	VTA opposes any change to Regulations that precludes the taxi driver from running the taximeter while loading and unloading a wheelchair-bound hirer. Drivers sometimes have to first locate the hirer in a hospital or nursing home then assist them to the taxi. If regulatory change is proceeded with which precluded drivers from running the meter while loading and unloading wheelchair bound passengers, service to wheelchair passengers would be diminished and drivers would insist on passengers being ready and waiting at the kerbside and being delivered only to the destination kerbside.	Proposed changes bring Regulations into line with formal variation of licence conditions in mid-2004, to ensure taxi-cab users, especially people with disabilities, are charged correctly and only for the transport aspect of the hiring. Exceptions are provided where a taxi-cab arrives at or after a booked time and the passenger is not ready to travel and asks the driver to wait. An additional subsidy is paid under the Multi-Purpose Taxi Program for trips involving wheelchairs to compensate the driver and operator for loading and unloading time. Continued payment of this direct subsidy would need to be reconsidered if drivers are also permitted to operate the taximeter during this loading and unloading time. Neither the current, nor the proposed, Regulations place any obligation to a driver to locate passengers within the confines of a hospital or nursing home.
Victorian Taxi Owners Association	Driver certificates should provide for taxis to be driven by mechanics for testing purposes.	This is the case and has been so for the past 10 years.
	Current Regulation 13B re duress alarms is redundant given introduction of cameras. This seems to have been picked up in amendments as the requirement seems to have disappeared.	The current Regulation 13B is to be removed as alternative and improved driver safety measures are in place.
	Current Regulation re tariff lamps is redundant as a single fare system no longer applies having been replaced by a multi-fare system which is indicated on the meter. Tariff lamps therefore serve no purpose.	Tariff lights remain relevant. High occupancy taxi-cabs have alternative fare structures and metropolitan taxi-cabs have a late night surcharge. The external operation of tariff lights is retained to inform customers and assist compliance activity. The requirement to display tariff lights within the taxi-cab is redundant and has been omitted from the proposed Regulations. Taximeters display the appropriate

Stakeholder	Stakeholder comment	Government response
		tariff to passengers.
ACROD- National Industry Association for Disability Services	Provisions regarding guide dogs should be expressed as a positive duty in a stand alone Regulation, rather than being included as a negative duty as in the current provision regarding carriage of animals.	Agreed. A provision to that effect has been included in the proposed Regulations.

4.7 Planned consultation

The Public Transport Division of the Department proposes to circulate the regulatory impact statement and draft regulations to key industry stakeholders and to offer briefings on those documents. In addition, the Division will encourage written and verbal feedback from stakeholders and the public generally and offer timely responses and explanations. As is customary, it is likely that some comments and responses prompt adjustments to the draft regulations prior to their final approval and making.

5 COSTS AND BENEFITS OF PROPOSED REGULATIONS

5.1 Costs

5.1.1 Costs to government

Because the proposed Regulations largely remake the existing provisions, the Government's agency costs are expected to be similar to current levels.

On this basis the Victorian Taxi and Tow Truck Directorate (VTD) estimates annual costs attributable to the proposed Regulations to be \$2.034 million including:

- \$0.407 million per year for issue and re-issue of driver certificates; and
- \$1.626 million per year for compliance activities.

These costs include salaries and resources including vehicles and equipment.

The net agency costs after cost recovery of \$23.50 per driving certificate¹⁷ are estimated to be \$1.778 million per year. In relative terms, these net agency costs equal 0.4% of taxi-cab revenues or \$0.06 per hiring.

5.1.2 Costs to industry

With the proposed Regulations being largely a remake of the existing provisions, current compliance costs are a reasonable guide to the likely costs with the proposed Regulations. Compliance costs are estimated in Table 3 below. The estimates are based on the following 2004 industry size data from VTD:

- 4,235 taxi-cab licences in Victoria (3,529 in metropolitan Melbourne; 706 in regional areas)
- 26,000 certificated taxi-cab drivers in Victoria (as currently recorded on the VTD database as holding a current driver certificate and authorised to driver taxi-cabs, including
- 13,000 active drivers (10,000 in metropolitan Melbourne; 3,000 in regional areas)
- 2,246 drivers certificates issued to first time applicants (1,600 on metropolitan Melbourne; 646 in regional areas. Those in regional areas are not required to undergo a driver training course).

Table 3 Industry compliance costs

¹⁷ The certification fee is determined under section 147B of the Transport Act 1983 by the licensing authority and must be approved by the Minister.

Item	Cost per taxi-cab	Actual cost	Average annual cost	Comment
<i>Owners-operators</i>				
Taximeter	\$100 to \$500	\$1,270,500	\$254,100	Assume mid-point cost and average life of five years
Not for hire signs (stickers)	\$3.50	\$14,823	\$14,823	Assume average life one year
Vehicle standards	\$0	\$0	\$0	Vehicles required to comply with Australian Design Rules (ADR) in any case irrespective of the proposed Regulations
Screens	\$0	\$0	\$0	Screen cost is \$1,450 each but they are not compulsory and rarely used in Victoria
Duress alarms	\$0	\$0	\$0	Incorporated into data terminal supplied by taxi-cab network
Boot release locks	\$35	\$148,225	\$29,645	Assume average life of five years
Security cameras	\$2,500	\$10,587,500	\$2,117,500	Assume average life of five years
Vehicle inspections	\$88	\$372,680	\$372,680	Annual inspection of 4,235 taxi-cabs
Vehicle inspections-drivers' time	\$8	\$33,880	\$33,880	One hour per inspection at a driver time cost of \$8 per hour; 4,235 taxi-cabs
Total			\$2,822,628	
Item	Cost per driver	Actual cost	Average annual cost	Comment
Uniforms	\$99	\$1,287,000	\$1,287,000	Assume 13,000 active drivers; uniforms replaced annually
Uniforms-driver time to purchase	\$2	\$26,000	\$26,000	Uniform items purchased during other shopping errands. Fifteen minutes per driver per year at \$8 per hour; 13,000 active drivers.
Driver training course	\$600	\$960,000	\$960,000	Based on 1,600 first time drivers (Melbourne metro) applying for and certificated each year
Driver training course – applicant's time to attend	\$540	\$864,000	\$864,000	Metropolitan Melbourne drivers only. 90 hour course at a time cost of \$6 per hour. Time cost per hour is likely to be

Item	Cost per driver	Actual cost	Average annual cost	Comment
				somewhere between unemployment benefits (around \$5 per hour) and the average earnings of a taxi driver (\$7.50 to \$8 per hour)
Driver medical and photos, new' drivers	\$87	\$195,402	\$195,402	Based on 2,246 first time drivers applying for and certificated each year, including photo cost
Driver medical and photos, new drivers – applicant's time	\$9.00	\$20,214	\$20,214	Time cost \$6 per hour as estimated above. 1.5 hours to attend medical and obtain passport-style photographs; 2,246 drivers.
Driver medical and photos, pre-certificated drivers	\$87	\$2,262,000	\$754,000	Based on 26,000 certified drivers, applying for certification once every three years, including photo cost
Driver medical and photos, pre-certificated drivers – drivers time	\$12	\$312,000	\$104,000	1.5 hours per driver to attend medical and obtain passport-style photographs, at a time cost of \$8 per hour; 26,000 drivers, once every three years
Police record check-new drivers	\$25	\$56,150	\$56,150	Based on 2,246 first time drivers applying for and certificated each year
Police record check- pre-certificated drivers	\$25	\$650,000	\$216,667	Based on 26,000 certified drivers, applying for certification once every three years
VTD Certificate fee 'new' drivers	\$23.5	\$52,781	\$52,781	Based on 2,246 first time drivers applying for and certificated each year
VTD Certificate fee - pre-certificated drivers	\$23.5	\$611,000	\$203,667	Based on 26,000 certified drivers, applying for certification once every three years
Total			\$4,739,881	
Total industry			\$7,562,509	

Source: From data provided by Victorian Taxi & Tow Truck Directorate

Across the 4,235 taxi-cabs operating in Victoria, total compliance costs would be \$7.6 million per year (including \$1.2 million or 15% on regional areas) or around 2% of the industry's annual fare revenue of \$400 million. Of those costs, \$2.8 million or 37% would be borne by taxi-cab owners/operators and \$4.7 million or 63% by drivers. On a per hiring basis, annual compliance costs would be \$0.28. Arguably, not all of these costs would be attributable to the

proposed Regulations. Even without direct regulation, operators or drivers would be likely to incur some of these costs. For example, to work in the hail and rank market, taxi-cabs would be likely to advertise their presence with some form of signing including illuminated signing for night use, some taxi-cabs would install meters to meet the demands of passengers who would not want to negotiate fares during the journey, and some operators would install security cameras either as protection for themselves as drivers or to help them employ the best drivers.

5.1.3 Costs to the community

The community bears the costs of a taxi service that may be less market-responsive in service quality, providing fewer price/quality options than might be desired. The impracticability of service quality and safety competition is argued elsewhere in this RIS. The scope for that type of competition is also limited by the legislative prescription of fares which is contained in provisions outside the proposed Regulations.

5.1.4 Total costs

Estimated total costs per year are summarised in Table 4.

Table 4 Estimated total costs of the proposed Regulations

Cost to:	Cost per year (Regional estimates in brackets)	Present value costs over three years (5% discount rate) (Regional estimates in brackets)
Government (net of cost recovery)	\$1.778 million	\$4.842 million
Industry		
Owners/operators	\$2.822 million (\$0.480) million	\$ 7.685 million (\$1.307 million)
Drivers	\$4.740 million (\$0.655 million)	\$12.908 million (\$1.784 million)
Total industry	\$7.562 million (\$1.143 million)	\$20.593 million (\$3.091 million)
Total Government and industry	\$9.340 million	\$25.435 million
Total cost per hiring	\$0.35	
Total cost per passenger	\$0.20	
Total cost as % of taxi-cab revenue	2.3%	

5.2 Benefits

5.2.1 Benefits to government

The proposed Regulations obviate or significantly reduce the need for dispute settlement processes in the industry, including disputes between drivers and passengers. In the absence of the proposed Regulations disputes could arise over a diversity of issues including driver presentation and behaviour, passenger behaviour, acceptance of hirings, pick up points, choice of route, method of fare collection and the like. The proposed Regulations also assist

the Government in ensuring that taxi-services are widely available and that the safety of passengers and drivers is protected.

5.2.2 Benefits to industry

Owners, operators and drivers

The proposed Regulations set operating rules for the industry and reduce transactions costs within the industry (owners/operators and drivers) and between the industry and passengers. Examples of the rules in the proposed Regulations that might otherwise need to be made privately include driver presentation and behaviour generally, operation of taxi zones, acceptance of all hirings, use of the shortest route, charging according to the taximeter, methods of payment, location of set down and pick up and operation of each taxi-cab's equipment.

Drivers

Some of the provisions in the proposed Regulations are intended to protect drivers from occupational violence.

There are limited sources of data on the frequency and severity of injury or death resulting from workplace violence. It is clear though that taxi driving is generally seen as a high risk occupation.

A survey of Victorian taxi drivers in 1997¹⁸ reported that crime and violence were common experiences for taxi drivers. Of those surveyed 87% had experienced fare evasion, nearly three-quarters had experienced verbal abuse, one-third had experienced assault, and 14% had experienced robbery.

There have been several murders of taxi drivers in Australia but the fatality rate is nowhere near the level found in other countries such as the United States. The Australian profile is more typically injury based.

Mayhew in her study of taxi driving reports that:

The commonest forms of aggression are shouting, swearing and threatening. Assault and murder may occur 'for kicks, often to avoid paying the fare but usually for the small amount of money drivers carry with them' (Grenard, 1982, p41)¹⁹

The Victorian survey found that the most common injuries were cuts and bruises (41%), head injuries (12%), knife wounds (3%), limb fractures (2%), gunshot wounds (1%), and "other" injuries (15%)²⁰.

18 Haines, F. 1997, *Taxi Driver Survey—Victoria: Understanding Victorian Taxi Drivers' Experiences of Victimisation and Their Preferred Preventative Measures*, Criminology Department, University of Melbourne, report for the Victorian Taxi Driver Safety Committee

19 Mayhew, C. 'A Case Study of the Taxi Industry' in Mayhew, C. and Peterson, C.L. (eds.)

Occupational Health and Safety in Australia: Industry, Public Sector and Small Business, p. 131, 1999.

20 Haines, op.cit, p19.

Mayhew's analysis of violent assaults on taxi drivers²¹ shows that the Queensland and New South Wales had similar patterns of violence to the Victorian experience.

Taxi-related crime statistics from the NSW Bureau of Crime Statistics and Research, and WorkCover NSW show marked improvements between 1998 and 1999 in relation to rates of robberies, assaults and WorkCover claims related to major violence. The biggest improvements were recorded for robberies in which where a taxi driver was identified as the victim, which were down 85%²².

The cost of workplace violence has proved difficult to estimate. Mayhew used workers compensation data in her analysis of Queensland claims. The average cost of an assault claim over the 1989-1992 period was \$4,482. This was less than the average cost of all other claims but this estimate may be affected by under reporting and self-treatment.

The Victorian survey showed that only 13% of surveyed taxi drivers reported their injury to WorkCover; 46% were unaware that they could claim; and 27% believed their injuries were too trivial to report²³.

According to the Victorian Taxi and Tow Truck Directorate: "Anecdotal evidence shows that security cameras are responsible for reducing driver assaults by up to 60 per cent."²⁴

Reductions in crime figures for NSW coincide with the introduction of both protective screens and a trial of cameras in 650 taxis. It is not possible to ascertain the specific impact of either measure but they may have contributed to the significant decrease in incidents. From the driver's perspective screens are seen as less effective than security cameras. The NSW Department of Transport's survey of 897 drivers and 263 taxi operators in 1999 showed a clear preference among drivers for cameras over screens²⁵.

Mayhew reports a 60% reduction in attacks on taxi drivers in Perth following the requirement for cameras which was introduced in 1997²⁶. IPART NSW notes that the WA Department of Transport had estimated a 50% reduction.²⁷

Visual and audio alarms are only effective to the extent that someone sees or hears them. Drivers in various surveys do not rate them as especially effective.

5.2.3 Benefits to the community including passengers

The benefits of the proposed Regulations from the perspective of passengers and the community more generally are difficult to quantify but the evidence from deregulated markets points to declining standards, price gouging, cherry picking of profitable routes and disputes among drivers as consequences of deregulation. This evidence is not wholly applicable to

21 Mayhew, C. *Violent Assaults on Taxi Drivers: Incidence Patterns and Risk Factors*, No. 178, Australian Institute of Criminology, 2000

22 'Evaluation of the NSW Government Policy Statement and Guidelines for Closed Circuit Television (CCTV) in Public Places - Executive Summary and Recommendations', Lawlink at <http://www.lawlink.nsw.gov.au/cpd.nsf/>

23 Haines, op.cit, p18.

24 Victorian Taxi Directorate <http://www.taxi.vic.gov.au>

25 Lawlink op.cit.

26 Mayhew, C. *Preventing Assaults on Taxi Drivers*, No. 179, Australian Institute of Criminology, 2000

27 See Independent Pricing and Regulatory Tribunal NSW (1999) *Review of the Taxi Cab and Hire Car Industries, Final Report*, p 55.

Victoria because the industry would remain subject to economic regulation in the absence of the proposed Regulations. However, because quality regulation imparts certainty to the operation of the taxi market it allows passengers to use taxis when that is their preferred mode and to use them with minimal search and transactions costs. Were that certainty to be not available, the efficiency loss to passengers would be measured by either the additional costs they would incur in making a trip other than by taxi, or by the loss incurred because a trip, otherwise made by taxi, was not made. In a more general sense the proposed Regulations enhance accessibility by facilitating taxi availability in locations where demand is more sparse than average, (the mechanism being the obligation imposed on drivers to take a passenger to the passenger's stated destination). Finally the provisions in the Regulations relating to driver security encourage drivers to drive out of hours, allowing service to be provided during those times.

5.3 Net benefit of the proposed regulations

At a cost of about \$0.35 per hiring (including VTD costs), the proposed Regulations provide security and safety to passengers and drivers, obviate private rule making between owners, operators and drivers in the taxi industry and obviate disputes within the industry and between the industry and passengers. Although the benefits cannot be quantified, the level of the costs is such that the benefits would be likely to exceed them. These benefits are not readily quantified. However, if every taxi hirer spent an extra 2.6 minutes²⁸ at an average value of travel time of \$8 per person hour negotiating a taxi hire either on the telephone, at the rank or in the taxi-cab, the additional costs would equate with the costs of the proposed Regulations. This estimate assumes one passenger per hiring. With two passengers per hiring, an extra cost of just over one minute per hiring would make this option as costly as the proposed Regulations. If allowance is made for cascading delays, particularly at ranks, as intending hirers elect to negotiate with individual taxi-cab drivers, the breakeven time cost would be less than that estimated here.

5.4 Summary – costs and benefits

Costs and benefits ('breakeven' basis) of the proposed Regulations are shown in Table 5. Total costs of the proposed Regulations are estimated to be \$9.340 million per year (\$25.435 million in present value terms over the three year life of the proposed Regulations). These costs would be covered were benefits to accrue of \$0.35 per trip or \$0.20 per passenger.

Table 5 Summary - costs and benefits

Cost to:	Cost per year	Present value costs over three years (5% discount rate)
	(Regional estimates in brackets)	(Regional estimates in brackets)
Government (net of cost recovery)	\$1.778 million	\$4.842 million
Industry		
Owners/operators	\$2.822 million (\$0.480 million)	\$ 7.685 million (\$1.307 million)
Drivers	\$4.740 million (\$0.655 million)	\$12.908 million (\$1.784 million)
Total industry	\$7.563 million (\$1.143 million)	\$20.593 million (\$3.091 million)

²⁸ According to IPART in NSW, 'The ranks operated by Sydney Airports Corporation at Sydney Airport aim to load one passenger per minute.' See Independent Pricing and Regulatory Tribunal NSW (1999) *Review of the Taxi Cab and Hire Car Industries*, Final Report, p7.

Cost to:	Cost per year	Present value costs over three years (5% discount rate)
Total Government and industry	\$9.340 million	\$25.435 million
Breakeven benefit per hiring	\$0.35	
Breakeven benefit per passenger	\$0.20	

6 CONSIDERATION OF ALTERNATIVES

6.1 Alternative 1 No regulation

In a no regulation ('base case') alternative there would be no specific statutory obligations on taxi owners, operators and drivers regarding service quality including service safety. However, economic regulation of the industry would continue so that three considerations become relevant:

- Firstly, owners and operators continue to be under an incentive to earn sufficient fare revenue to cover their licence purchase costs or their licence assignment cost. Owners or operators of taxi-cabs that were un-signed or poorly signed or lacking a properly functioning meter may find it difficult to operate in the hail and rank markets.
- Secondly, much of the literature on taxi deregulation addresses the economic deregulation which, if coupled with quality deregulation appears to lead to declines in service quality and safety at least in part because with economic deregulation, more taxi-cabs are competing for the available passenger trips. Were the proposed Regulations to be not made, economic regulation would continue to protect existing licence owners or operators from uncontrolled competition and the tendency it appears to induce towards a lowering of taxi service standards.²⁹
- With fare levels being prescribed under the Act, taxi owners/operators would have little opportunity to engage in price/quality competition. Reductions in standards without commensurate reductions on fares would make taxi travel less attractive and lead to some level of mode switching. That mode switching in turn would be associated with economic efficiency losses for those passengers who would otherwise have used taxis at the combination of regulated fare and regulated quality standards.

The structure of the market would hence be important in the outcomes of this option. With more than half of all hirings being pre-booked through depots, there would be continuing incentives for depots to ensure that operators provide reliable, predictable and safe service; customers otherwise could choose to book through another depot. The influences in the street market would be somewhat different because potential passengers have less opportunity for search for the quality of service that suits them. However operators who wished to operate in both the telephone and street markets would be subject to the pressures of the pre-booked market to maintain service quality.

The difficulty for the industry in this option is inconsistency between prescribed fares and unregulated quality standards. If some owners/operators chose to lower standards at the prescribed fares (perhaps as a means of testing the market), the attractiveness or reputation of the industry would be damaged leading to losses in profitability and reductions in service provision.

²⁹ For example, see Des Nicholls (2003) *The Role of the Public Interest in the Application of the National Competition Policy to the Australian Taxi Industry*, prepared for the Australian Taxi Council.

6.1.1 Costs

The costs of this option are conjectural because the workings of the market in the absence of quality regulation are unknown. The evidence from experience elsewhere is mostly if not totally from situations in which both economic regulation and quality regulation have been abolished. Some costs can be conceptualised though:

- Passengers are likely to face higher search costs.
- At the current prescribed fare levels some passengers could be forced, by lower quality taxi service into sub-optimal mode choices (for example using the private car when otherwise taxis would be cheaper) or using other public transport modes which have longer waiting, journey and walk to destination times).
- Some additional friction could be expected at ranks as some passengers filter out those taxis that appear unmetered or unusually dirty and other passengers seek those very taxis in the hope of benefiting from a lower fare.
- Passengers who were unfamiliar with the geography or the taxi market or who lacked the confidence or skill to protect their interests (possibly including some of the elderly, the sick or the disabled), may incur costs because the taxi service delivered is of a lower standard than expected or because they have to take measures to recover damage (such as through fair trading or small claims processes).
- Depots, operators and drivers would incur costs in negotiating and rule making in respect to service quality items; for example about uniforms, policies relating to acceptance of hirings, cab cleanliness, default routes and the like.
- There could be some additional costs of violence against drivers if owners cease installing and operating security cameras. However, two offsetting factors would be the already 'sunk' investment in security cameras and the potential effect on demand and fare income if operators faced increased difficulty in recruiting out of hours drivers.
- Were standards to be lowered Victoria could suffer some loss of tourist status or reputation through reduction in taxi service quality. Tourists make up 17% of the taxi market.

As noted earlier in section 5.3, although these individual costs cannot be estimated, if every taxi hirer spent an extra 2.6 minutes³⁰ at an average value of travel time of \$8 per person hour negotiating a taxi hire either on the telephone, at the rank or in the taxi-cab, the additional costs would equate with the costs of the proposed Regulations. If allowance is made for cascading delays to other intending passengers and taxis, the 'breakeven' delay would be less than that estimated here.

6.1.2 Benefits

This option would save agency costs of \$1.778 million per year and industry compliance costs for owners/operators and drivers of up to \$7.563 million annually. The industry savings are

³⁰ This estimate assumes one passenger per hiring. With two passengers per hiring, an extra cost of just over one minute per hiring would make this option as costly as the proposed Regulations. According to IPART in NSW, 'The ranks operated by Sydney Airports Corporation at Sydney Airport aim to load one passenger per minute.' See Independent Pricing and Regulatory Tribunal NSW (1999) *Review of the Taxi Cab and Hire Car Industries*, Final Report, p7.

likely to be much less than this because a proportion of the industry would incur costs – such as for signing, metering, security, training, uniforms and the like) - even without regulation.

6.2 Alternative 2 Co-regulation

The Government could require that each depot develop and enforce codes of conduct to which each of their operators and drivers would be subject. The regulations would set out performance objectives or standards in broad terms. Unless the industry as a whole were to develop a code there would be a danger of inconsistency between codes and therefore inconsistency in service to the public. This would be undesirable given the importance of taxi travel and the need to protect the safety of hirers. Without statutory backing³¹, the code(s) would be non-mandatory. Some of the industry's characteristics however would not readily lend themselves to other than black letter law (regulations). With the transient character of the driver population and high driver turnover (around 25% from VTD information), there would be little incentive for drivers to abide by a non-statutory code. With a high proportion of non-English speaking drivers entering the industry, - on VTD data in excess of 80% of the new driver intake - transmission of the intent and operation of the code and the relationships between the various parties in the code would also be challenging.

6.2.1 Costs

There would be costs for the industry in developing and implementing each depot's code and some agency costs in ensuring that the code had been developed and implemented. Depots and operators would incur costs in delivering the code to drivers through education and training (due in part to language difficulties), monitoring code compliance and disciplining non-compliance. Some costs, such as for security, signage, metering, vehicle and driver quality might be no less than those anticipated with the proposed Regulations. Enforcement of the rules would occur with less certainty than in a regulated environment.

6.2.2 Benefits

Benefits could include some saving in agency costs as the enforcement role is pushed on to the industry. There could also be efficiency gains if depots had more flexibility to introduce practices that were more tailored to their markets. Examples might be a savings in uniform costs in small markets with few taxis or savings in security camera costs in markets where assault risk was perceived to be low. However uncertainties about coverage, consistency and enforcement would probably reduce the effect of any benefits.

6.3 Alternative 3 Driver certification period of up to five years

The proposed Regulations provide for driver certification to be valid for a period of up to three years. Table 6 shows that certification periods vary across Australia between maxima of one and five years.

Table 6 Taxi/limousine driver certification periods in Australia

Region	Name of Authority & Issuing Body	Period of Issue	Operating Area
Queensland	Queensland Transport Driver Authority	1 to 5 years	All of state
New South	Driver Authority	1 year initially & for 3	Sydney

³¹ Were a Code to be a statutory Code, it might well represent regulations in a different guise.

Wales		years after	Newcastle Wollongong NSW Country
Australian Capital Territory	Motor Driver Licence (MDL) endorsed	1 to 5 years	All of territory
Victoria	Driver's Certificate	1 to 3 years	Metropolitan & Regional & Country
Tasmania	Ancillary Certificate	1 year but 3 years for Community Transport Organisations	All of state
South Australia	Driver Accreditation Issued By: Safety Compliance Transport Safety Regulation Transport SA	On completion of training, Applicants are originally issued with a 3 month temporary DA to complete 120 hours of driving Once 120 hours have been complete the training provider conducts a final assessment Certificate with final assessment is then produced to the Transport SA for a full taxi DA DA is then issued for 1 to 5 years	All of state
Western Australia	MDL endorsed	<u>Metropolitan</u> 1 to 5 years <u>Country</u> 2 years	Metropolitan & Country
Northern Territory	MDL endorsed	1 or 5 years	All of territory

The currency of medical certificates also varies from a requirement for annual medical check up to medical checks being valid from issue until the driver reaches sixty years of age. A currency of five years is however more prevalent than the three years provided in the proposed Regulations.

Table 7 Taxi/limousine driver medical examination intervals in Australia

Region	When and by whom must the medical examination be undertaken	Validity of the medical certificate
Queensland	When making application and not older than 6 months from date of issue. Medical practitioner in accordance with the Assessing Fitness to Drive – Commercial & Private Vehicles Drivers Guidelines	Valid for 5 years maximum or as otherwise determined by medical practitioner
New South Wales	When making application Medical practitioner in accordance with the national standards recommended by the National Road Transport Commission	Valid until the holder is 60 years of age unless otherwise determined by a medical practitioner or the Director-General
Australian Capital Territory	When making application Initial medical conducted by the Health Services Australia	Initial medical is valid for 12 months. After this the holder must undertake annual medical through a medical practitioner
Victoria	Within 6 months from making application	Valid for 3 years maximum or as

Region	When and by whom must the medical examination be undertaken	Validity of the medical certificate
	Medical practitioner in accordance with the Assessing Fitness to Drive – Commercial & Private Vehicles Drivers Guidelines	otherwise determined by medical practitioner
Tasmania	Within 3 months from making application Medical practitioner in accordance with the Assessing Fitness to Drive – Commercial & Private Vehicles Drivers Guidelines	Valid for 3 years maximum or as otherwise determined by medical practitioner
South Australia	Within 3 months from making application Medical practitioner in accordance with the Assessing Fitness to Drive – Commercial & Private Vehicles Drivers Guidelines	Valid for 5 years maximum or as otherwise determined by medical practitioner
Western Australia	When making application of “T” & “F” endorsements Medical practitioner in accordance with the Assessing Fitness to Drive – Commercial & Private Vehicles Drivers Guidelines	Valid for 5 years maximum or as otherwise determined by medical practitioner
Northern Territory	When making application Medical practitioner in accordance with the national standards recommended by the National Road Transport Commission	Valid for 5 years maximum or as otherwise determined by medical practitioner

The benefit of a certification (including medical certification) period of five years as against a three year period is reduced certification costs for government and drivers. Annual recertifications would fall from approximately 8,700 annually to 5,200 and total certifications from approximately 11,000 annually to 7,400. Cost savings are estimated to be:

- For Government: \$129,000 per year
- For taxi-cab drivers: \$511,000 per year
- Total saving: \$640,000 per year.

Against these cost savings, an extended certificate currency would increase risks that taxi drivers were medically unfit to drive, had unremediated eyesight weakness or had accrued a criminal record since their last certification. The cost of that enhanced risk is not readily estimated because regulation of drivers is intended to ensure they are able to drive safely and as well pose no other personal safety risk or probity risk to passengers. When put in context of the costs of the proposed Regulations, these potential savings are small, amounting to about 6% of total costs or \$25 per certificated driver per year or \$49 per active driver per year or \$0.02 per hiring.

The extent of the cost saving is therefore small when set against the nature of the risks that the certification system is intended to control and accordingly this alternative could not be supported.

6.4 Comparison of alternatives

The costs of the proposed Regulations are not high relative to fare revenue and it is not clear that the costs of the alternatives would be greatly less or that the alternatives would satisfactorily control the risks that the proposed Regulations address. The proposed Regulations have the benefit of predictability and certainty about taxi service, and reduce transactions costs between hirers and operators. The proposed Regulations also provide

certainty that driver security will be protected. Alternatives 1 and 2 might protect driver security, but except in alternative 3 there is no certainty that they would do so. The alternatives could also provide a more flexible response to the demands of the market, but so long as the market prefers service standards at approximately current levels plus predictable fares, any savings in compliance costs would not be large. In addition, the scope for efficiency deregulation of quality standards is limited so long as fare levels are prescribed under the Act which in turn would constrain the industry's capacity to both operate at lower standards and maintain its reputation and revenue base.

None of the alternatives is clearly preferable to the proposed Regulations.

7 COMPETITION TEST

The proposed Regulations were assessed against National Competition Policy Guidelines and this assessment can be found in Appendix 1. The assessment concluded that the proposal does not restrict competition.

APPENDIX 1: COMPETITION ASSESSMENT

Assessment against the Guiding Legislation Principle on Competition

The guiding principle under the Competition Principles Agreement is 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.

The Situation and the Proposal

Current Situation

The quality and safety of taxi-cab services in Victoria is currently regulated by the *Transport (Taxi-Cabs) Regulations 1994*. The industry is subject to economic regulation by **Transport Act 1983**. The current Regulations require that only certificated drivers be permitted to drive taxi-cabs, that taxi-cabs meet certain specifications, that taxi-cabs carry specified metering and safety equipment and that taxi-cab drivers behave in prescribed ways towards passengers and other taxi-cab drivers.

Proposed Regulations

The proposed Regulations largely remake the current Regulations on an interim basis. Provisions in the proposed Regulations are largely similar to those which presently prevail.

The Market and Key Groups

The market on the supply side comprises taxi-cab owners or operators who supply taxi-cab services to the public. Drivers supply intermediate services to taxi-cab owners or operators. The industry on the demand side comprises individuals and organisations who purchase taxi-cab services.

Test for Restrictions on Competition.

Under the Guidelines for the Application of the Competition Test to New Legislative Proposals, legislative schemes are deemed to contain restriction on competition if they:

- Allow only one company or person to supply a good or service (monopoly);
- Require producers to sell to a single company or person (monopsony);
- Limit the number of producers of goods and services (duopoly or oligopoly);
- Limit the output of an industry or individual producers;
- Limit the number of persons engaged in an occupation.

Restrictions on Competition

Allow only one company or person to supply a good or service

The proposed Regulations do not accord a monopoly to any person or company. Hence the proposed Regulations are not anti-competitive in this respect.

Require producers to sell to a single company or person (monopsony)

Taxi-cab owners, operators and drivers who are affected by the proposed Regulations are able to sell taxi-cab services to any organisation or person wishing to use taxi-cab services. The proposed Regulations do not restrict those transactions. Hence the proposed Regulations are not anti-competitive in this respect.

Limit the number of producers of goods and services (duopoly or oligopoly)

The proposed Regulations do not limit the numbers of taxi-cabs or taxi operators and accordingly the proposed Regulations are not anti-competitive in this respect.

Limit the output of an industry or individual producers.

There is nothing in the proposed Regulations that limits the output of the taxi-cab industry. Accordingly the proposed Regulations are not anti-competitive in this respect.

Limit the number of persons engaged in an occupation

The proposed Regulations require that taxi-cabs be driven only by persons who hold a driver's certificate although they do not set a ceiling on the number of persons who may be certificated. The effect of the proposed Regulations could be that some persons who might wish to drive a taxi-cab may not be permitted to do so because they have not been able to prove they have the requisite skills or medical fitness. Controls to ensure that drivers are trained, do not have a criminal history, and do not have medical impediments to operating a taxi-cab are essential if taxi services are to be safe and secure for hirers. The costs of the proposed Regulations as they apply to driver certification amount to approximately 1% of total taxi-cab revenues or \$0.19 for every 10 km hiring. Therefore the benefits of a screened, trained driver population would need only be 1% of taxi-cab revenues to justify the costs of the proposed Regulations that relate to driver certification. Accordingly any competitive restriction is likely to be justifiable because it is essential to the provision of safe and secure taxi service and because the benefits of the restriction are likely to outweigh the costs³².

Conclusion

In most respects the proposed Regulations are unlikely to be restrictive of competition. The requirement for certification of drivers is potentially restrictive but it is essential to the provision of safe and secure taxi services. The benefits of the restriction would need only be relatively small before the costs of the restriction were justified.

³² Although 26,000 people are certificated to drive a taxi-cab in Victoria only 13,000 actively drive at any time. The difference suggests that factors other than certification requirements influence entry into taxi driving.

APPENDIX TWO: REFERENCES

Victorian Taxi Directorate <http://www.taxi.vic.gov.au>

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APPENDIX THREE: THE PROPOSED REGULATIONS

Attach regulations here