Pages 1 through 30 redacted for the following reasons:

Sch. 3(12)(1)
Dear Treasurer

Congratulations on your successful election as the Government of QLD and your appointment as Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships.

On behalf of our client Uber, we respectfully request a meeting with an appropriate person from your office

- A chance to meet and help you put faces and names to the organisation’s QLD arm;
- Discuss Uber’s sensible approach to engaging with the new QLD Government;
- Share exactly how Uber can help create new jobs in QLD; and
- Discuss the safety and security protocols of Uber and how Uber is keen to help the state government explore ways to meet the growing demand for transport in Brisbane and beyond.

We appreciate that your office is in its early days of being set-up, however a brief initial catchup whilst Uber’s Director of Public Policy - Oceania, Brad Kitschke is in Brisbane this Thursday, 26 February 2015. Please note, Brad would be accompanied by Uber’s General Manager for Queensland, Mike Abbott.

We emphasise that for this initial meeting our expectations would be for an informal catchup if that was easiest for your office.

We apologise for the late notice, but if you could advise who and when somebody might be available, that would be most appreciated.

Feel free to contact me directly on to discuss.

Kind regards,

James Larsson
Associate Partner
Newgate Australia

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Vikki Paroczai

From: Jenna Birt <Jenna.Birt@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Monday, 10 November 2014 10:52 AM
Vikki Paroczai
Subject: FW: An open email to Queensland MPs from a concerned Taxi Owner.

Jenna Birt
Office Manager
Office of the Hon. Tim Nicholls MP | Treasurer and Minister for Trade
Phone: 07 3719 7200 | Fax: 07 3220 6224
Executive Building | 100 George Street | Brisbane | QLD 4000
GPO Box 611 | Brisbane | QLD 4001

Great State. Great Opportunity.

STRONG CHOICES • FINAL PLAN
wA-Av.S+rongChoices.qldgov.uu

Sent: Sunday, 9 November 2014 7:45 PM
To: Treasurer
Subject: FW: An open email to Queensland MPs from

Contrary to Public Interest

Sent: Sunday, 9 November 2014 7:30 PM
To: 'Broadwater@parliament.qld.gov.au'; 'Mudgeeraba@parliament.qld.gov.au'; 'Burnett@parliament.qld.gov.au'; 'Ipswich@parliament.qld.gov.au'; 'Attorney@ministerial.qld.gov.au'; 'Albert@parliament.qld.gov.au'; 'Rockhampton@parliament.qld.gov.au'; 'Brisbane.Central@parliament.qld.gov.au'; 'Ipwisch.West@parliament.qld.gov.au'; 'Whitsunday@parliament.qld.gov.au'; 'Thuringowa@parliament.qld.gov.au'; 'Coomera@parliament.qld.gov.au'; 'hnrm@ministerial.qld.gov.au'; 'localgovernment@ministerial.qld.gov.au'; 'Gladstone@parliament.qld.gov.au'; 'Redcliffe@parliament.qld.gov.au'; 'Capalaba@parliament.qld.gov.au'; 'ccsds@ministerial.qld.gov.au'; 'police@ministerial.qld.gov.au'; 'nprsr@ministerial.qld.gov.au'; 'Bulimba@parliament.qld.gov.au'; 'Gaven@parliament.qld.gov.au'; 'Redlands@parliament.qld.gov.au'; 'Noosa@parliament.qld.gov.au'; 'Indooroopilly@parliament.qld.gov.au'; 'Moggill@parliament.qld.gov.au'; 'Springwood@parliament.qld.gov.au'; 'Morayfield@parliament.qld.gov.au'; 'Condamine@parliament.qld.gov.au'; 'Murrumba@parliament.qld.gov.au'; 'Burleigh@parliament.qld.gov.au'; 'Townsville@parliament.qld.gov.au'; 'Warrego@parliament.qld.gov.au'; 'Pine.Rivers@parliament.qld.gov.au'; 'Gregory@parliament.qld.gov.au';
To the above Recipients,

I am writing to all Queensland MPs and am concerned about your collective inaction on Uber. I am also being told that a fair proportion of you don’t know anything about Uber or its interaction with the taxi industry. So, hopefully this email may enlighten you. If I have incorrectly noted something, I am certain someone will let me know.

Uber is a ride sharing application allowing you, a member of the public to be picked up by another member of the public in their private vehicle and to be driven to a destination. Uber says it is a technology company or as their site says - they are “a request tool not a transportation carrier” – this is an important qualification. To use Uber, you download the App to your cell phone, request a ride through it, input your credit card details for the prepayment of the ride and wait to be picked up. Uber will take 20% of the fare and the driver will get 80% of the fare. Uber's’ 20% goes directly offshore to a tax haven. The drivers' 80% is a different matter - I would suggest that it may not be declared to the ATO for payment of GST and tax. The Uber fare can vary - lower than a taxi fare in off-peak periods while many times that during peak periods or as Uber call it “surge pricing”.

To be a Uber driver you need to sign up with them and have a vehicle less than nine years old. They say they vet their drivers – this is their public safety statement. So, if I want to drive for Uber and have a penchant for making money - I buy an ex-taxi which will be a Toyota Prius, have approximately 450,000 kms on it, be six years old and cost me $4,500 which includes up to six months registration – I may get comprehensive insurance for say, another $600. In Queensland, taxis can only be a taxi for six years from the "built date" therefore this ex-taxi can be used for another three years by the Uber driver. So there we go, pretty simple. No regulations, no vehicle checks, no one to answer to, no safety requirements, no tax, now this is a great business. Did I say they only work the peak periods, can't pick up the disabled, and no, the slower nights just aren't their thing either. You're in an outlying suburb – sorry, they don't do that. You'll have to ring a cab. What's that you say - they don't exist anymore.

Insurance Council has suggested that it will be illegal for Uber vehicles to be in contention if they were deemed to be acting in an illegal capacity. Refer here:
But I have to follow the legislation that you—or more importantly your government enforces upon me. It reached its six year life. As noted above the old one will be sold for $4,500 and quite probably to a Uber driver—why? Because the economy is not good and I have replaced it with a June 2011 Prius—it is 3 years and 5 months old and will run for another 2 years and 7 months to meet the six year criteria.

Taxi operators are a shifty lot and can’t be trusted. I think is useless. The list goes on. This is all my responsibility—due to the usual all care and no responsibility adopted by government departments. We have to provide a service seven days a week. We pick up the school kids, the aged, the infirm, the disabled. We pick them all up at the oddest of hours. Got the picture?

Did I mention that we had to recently install new meters to overcome a loophole to ensure the public can’t be “fleeced” by drivers—at a cost of $500 per vehicle. I also won’t mention that the feds wiped out the accelerated depreciation and instant write-off rules.

Anyway, when you place a call for a taxi and it arrives and takes you to your destination—your ride is fully traceable, the phone number used is recorded, as is your pick-up location and drop off point, the precise route your driver drove is also downloadable, the speed he was driving also, and you are on camera (all personally protected and only accessible by the police) the whole episode is recorded for your safety and peace of mind should you leave something behind in the taxi or have a problem with the driver.

In one fell swoop Uber has wiped out and disregarded all this legislation that we as an industry have to abide by—and still do. Thanks to Keith Boyer, I am told that Uber has had two “cease and desist” orders placed on them since May, followed by a token effort by the Transport Department to fine them. We as an industry receive an avalanche of fines by the police and the Brisbane City Council every week—Uber doesn’t. We pay large sums in GST, Tax, Stamp Duty and provide a safe and efficient service to the community at large. I can’t see Uber doing this.

Everyone has a taxi horror story, either true or made up to suit the occasion. We also have horror stories in relation to the public, whether they be footballers, politicians, barristers or labourers. You have your story—we can fill a book. Yes, we have to abide by the flack a drunk generates the following day because he was either refused by a
taxi, threw up in a taxi, kicked in a panel on a taxi or was too drunk to remember he rang two taxi companies thus stopping one from picking up either you or your wife. (An aside - This double calling is a common practice – Ubers prepayment stops this.) We actually do a good job – we have to contend with the legislative requirements, the public, the police, our drivers and our own lives – this industry is not easy – every time I hear taxis being mentioned on the news I cringe. I think we cope quite well but bear the brunt of things we shouldn’t.

Uber is operating illegally in Queensland – it is flagrantly disregarding all legislation and you the government are doing nothing about it. This inaction is creating a real smell to it. There are a lot of rumour as to why this is happening – maybe some of you should ask questions. Your government is not enforcing its’ legislation and it is damaging our industry. Tell the Premier and the Transport Minister to fix the problem and shut down Uber – the legislation is in place. We have a large proportion of the registration numbers of the Uber vehicles and can easily identify them – let us show you.

There are approximately 3,000 taxi licences in Queensland (2,000 in Brisbane)- not a great lot of votes? 3,000 taxis times 14 shifts per week times 20 passengers per shift means 840,000 passengers per week. If we take into account a utilisation factor and drop that to 500,000 passengers per week – I suspect people could be given a message – maybe vote labor to stop asset sales, maybe vote labor to reduce electricity costs. But I suspect, we may not be able to do that because of some legislation. What do you think?

I was told the value of the taxi industry is two billion dollars – if true that would be a suitable preliminary figure for a class action – once it is confirmed as a loss. The reason being the governments inaction on enforcing its legislation thereby destroying an industry and the value associated with it. These are my thoughts – I could be right or I could be wrong – but it bears thinking about.

The Transport Department hierarchy knows very little about the taxi industry – they continually engage consultants who know a lot less to make recommendations that they don’t understand. If you want to find out more – talk to the operators – ones who actually own and operate licences “with some skin in the game”. Or if you don’t trust us talk to the operational level within Transport – they exist below the boffin level - the ones that actually know what is happening.

Lastly, if all else fails, have a talk to Bill Parker at Yellow - he is the GM - he has been the unofficial patron and guardian of the taxi industry in Queensland for a very long time. He is “forthright and honest” and will tell you “like it is”. A tour of the radio room on a Friday or Saturday night followed by a late night tour of “the valley” with Bill will provide an eye opener as well.

The cab companies and the police have had a very good relationship for a very long time – I am told they may be the ones that will solve this little problem – so leave them alone. I also believe that we need some regulation as there are good and bad operators amongst us.

don’t have to suffer fools or play politics – I would be interested in your replies – but they have to be your replies – I don’t want the standard rubbish that you tend to generate AND I want some action.

Kind Regards,
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Please consider the environment before printing this email.
Vikki Paroczai

From: Jenna Birt <Jenna.Birt@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Thursday, 4 December 2014 8:20 AM
Vikki Paroczai
Subject: FW: An Email to Bill Shorten - Asking for support.

Jenna Birt
Office Manager
Office of the Hon. Tim Nicholls MP | Treasurer and Minister for Trade
Phone: 07 3719 7200 | Fax: 07 3220 6224
Executive Building | 100 George Street | Brisbane | QLD 4000
GPO Box 611 | Brisbane | QLD 4001

Sent: Wednesday, 3 December 2014 6:07 PM
To: Whitsunday; Thuringowa; Springwood; Townsville; Warrego; Yeerongpilly; Waterford; Stafford; Treasurer; thepremier@premiers.qld.gov.au; Stretton; Woodridge@parliament.qld.gov.au; Maroochydore; Transport and Main Roads; Sunnybank; Toowoomba North
Subject: FW: An Email to Bill Shorten - Asking for support.

Contrary to Public Interest

Sent: Wednesday, 3 December 2014 5:47 PM
To: 'bill.shorten.mp@aph.gov.au'
Cc: 'Broadwater@parliament.qld.gov.au'; 'Mudgeeraba@parliament.qld.gov.au'; 'Burnett@parliament.qld.gov.au'; 'Ipswich@parliament.qld.gov.au'; 'Attorney@ministerial.qld.gov.au'; 'Albert@parliament.qld.gov.au'; 'Rockhampton@parliament.qld.gov.au'; 'Brisbane.Central@parliament.qld.gov.au'; 'Ipswich.West@parliament.qld.gov.au'; 'Whitsunday@parliament.qld.gov.au'; 'Thuringowa@parliament.qld.gov.au'; 'Coomera@parliament.qld.gov.au'; 'nrm@ministerial.qld.gov.au'; 'localgovernment@ministerial.qld.gov.au'; 'Gladstone@parliament.qld.gov.au'; 'Redcliffe@parliament.qld.gov.au'; 'Capalaba@parliament.qld.gov.au'; 'ccsds@ministerial.qld.gov.au'; 'police@ministerial.qld.gov.au'; 'nprs@ministerial.qld.gov.au'; 'Bulimba@parliament.qld.gov.au'; 'Gaven@parliament.qld.gov.au'; 'Redlands@parliament.qld.gov.au'; 'Noosa@parliament.qld.gov.au'; 'Indooroopilly@parliament.qld.gov.au'; 'Moggill@parliament.qld.gov.au'; 'Pumicestone@parliament.qld.gov.au'; 'Nanango@parliament.qld.gov.au'; 'Gympie@parliament.qld.gov.au';
Subject: An Email to Bill Shorten - Asking for support.

Dear Bill,

Contrary to Public Interest

Uber, a share riding application – much the same as the taxi industry in Victoria was being threatened – your assistance to the industry in that state was repaid with an election victory – are you willing to offer your assistance to our industry in this state?

To help you understand our plight I have attached an email that I sent to all the members in Queensland explaining the problem – to no avail. The Transport Minister here appears to be our enemy. A pity when you realise that all taxi operators and licence owners are small business people – we are not large conglomerates or monopolies. Most of us are mums and dads, and this state government – who purport to assist small business don’t care – Bill Parker, GM of Yellow Cabs is continually fielding calls from worried and upset families who can’t understand why no action is being taken. You helped in Victoria – can you help us here?

If you can, we would greatly appreciate a meeting with you – I am sure Bill and myself could meet with you at any convenient time you are in our state and explain our concerns.

My kind Regards,

Contrary to Public Interest

Sent: Sunday, 9 November 2014 7:30 PM
To: 'Broadwater@parliament.qld.gov.au'; 'Mudgeeraba@parliament.qld.gov.au'; 'Burnett@parliament.qld.gov.au'; 'Ipswich@parliament.qld.gov.au'; 'Attorney@ministerial.qld.gov.au'; 'Albertyn@parliament.qld.gov.au'; 'Rockhampton@parliament.qld.gov.au'; 'Brisbane.Central@parliament.qld.gov.au'; 'Ipswich.West@parliament.qld.gov.au'; 'Whitsunday@parliament.qld.gov.au'; 'Barron.River@parliament.qld.gov.au'; 'Mansfield@parliament.qld.gov.au'; 'Toowoomba.North@parliament.qld.gov.au'; 'Nicklin@parliament.qld.gov.au'; 'Nudgee@parliament.qld.gov.au'; 'Keppel@parliament.qld.gov.au'; 'Bruce Dickson'; 'JTighe@blackandwhitecabs.com.au'; 'Q/Transport Gerida Schull'; 'greg.w.smith@transport.qld.gov.au'; 'Q/Transport Simon Cook'; 'Q/transport Wayne McGovern'; 'Warren Darnill'; 'Kallangur@parliament.qld.gov.au'; 'Woodridge@parliament.qld.gov.au'; 'Callide@parliament.qld.gov.au'; 'Alginster@parliament.qld.gov.au'; 'Ferny.Grove@parliament.qld.gov.au'; 'speaker@parliament.qld.gov.au'; 'Mount.Ommaney@parliament.qld.gov.au'; 'Hervey.Bay@parliament.qld.gov.au'; 'Southern.Downs@parliament.qld.gov.au'; 'Health@ministerial.qld.gov.au'; 'THHR@ministerial.qld.gov.au'; 'Mermaid.Beach@parliament.qld.gov.au'; 'Sunnybank@parliament.qld.gov.au'; 'Currimbirr@parliament.qld.gov.au'; 'Lytton@parliament.qld.gov.au'; 'South.Brisbane@parliament.qld.gov.au'; 'Barron.River@parliament.qld.gov.au'; 'Mansfield@parliament.qld.gov.au'; 'Toowoomba.North@parliament.qld.gov.au'; 'Nicklin@parliament.qld.gov.au'; 'Nudgee@parliament.qld.gov.au'; 'Keppel@parliament.qld.gov.au'; 'Bruce Dickson'; 'JTGhe@blackandwhitecabs.com.au'; ActVest; 'Qd Tport Keilor Tp'; 'commissioner@police.qld.gov.au'; 'Q/Transport Gerida Schull'; 'greg.w.smith@transport.qld.gov.au'; 'Q/Transport Simon Cook'; 'Qd transport Wayne McGovern'; 'Warren Darnill'; 'Bert Van Manen MP'; 'andrew.laming.mp@aph.gov.au'; 'josh.bull@aph.gov.au'; 'Info'
To the above Recipients,

I am writing to all Queensland MPs and am concerned about your collective inaction on Uber. I am also being told that a fair proportion of you don’t know anything about Uber or its interaction with the taxi industry. So, hopefully this email may enlighten you. If I have incorrectly noted something, I am certain someone will let me know.

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Lastly, if all else fails, have a talk to Bill Parker at Yellows (3391 5955) - he is the GM - he has been the unofficial patron and guardian of the taxi industry in Queensland for a very long time. He is “forthright and honest” and will tell you “like it is”. A tour of the radio room on a Friday or Saturday night followed by a late night tour of “the valley” with John Wilson will provide an eye opener as well.

The cab companies and the police have had a very good relationship for a very long time – I am told they may be the ones that will solve this little problem – so leave them alone. I also believe that we need some regulation as there are good and bad operators amongst us.

Me, I am a professional engineer, RPEQ actually, who wound up in the taxi industry – I am also at an age where I don’t have to suffer fools or play politics – I would be interested in your replies – but they have to be your replies – I don’t want the standard rubbish that you tend to generate AND I want some action.

Kind Regards,
his email has been checked for viruses by Avast antivirus software.

www.avast.com

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Please consider the environment before printing this email.
Catherine Hall

From: Kim McInnes <Kim.McInnes@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Friday, 2 January 2015 9:59 AM
To: Vikki Paroczai
Cc: Catherine Hall
Subject: FW: Reply to Uber story in 'The Australian' 31st December 14

For the system

Kim McInnes
Executive Assistant to the Treasurer and Minister for Trade
Office of the Hon. Tim Nicholls MP | Treasurer and Minister for Trade
Phone: 07 3719 7215 | Fax: 07 3220 6224 | Mobile: 0401 450 335 | Parliament House: 07 3406 7401
Executive Building | 100 George Street | Brisbane | QLD 4000
GPO Box 611 | Brisbane | QLD 4001

Contrary to Public Interest

Sent: Thursday, 1 January 2015 7:38 PM

Central; Ipswich West; Whitsunday; Thuringowa; Coomera; Natural Resources; Local Government;
Subject: Reply to Uber story in 'The Australian' 31st December 14

My reply to a Uber story by David Rohrsheim, the Australian General Manager of Uber in the Australian on P18 in the business section on the 31st December 2014

Regards,

This email, together with any attachments, is intended for the named recipient(s) only; and may contain privileged and confidential information. If received in error, you are asked to inform the sender as quickly as possible and delete this email and any copies of this from your computer system network.

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Unless stated otherwise, this email represents only the views of the sender and not the views of the Queensland Government.

Please consider the environment before printing this email.
Dear Premier & Transport Minister,

Credit where credit is due. The actions of QT compliance over the weekend just gone in enforcing the laws of the state have been welcomed by the many thousands who work in the Taxi industry. Industry participants from all over the state have never been so united in facing the threat to their livelihoods and futures from Uber, a ride sharing communication platform that has turned law breaking and exploitation of both drivers and riders into an art form around the world.
I ask you to keep listening to the many, many voices from within the industry who are reaching out to Government to do the right and fair thing by Queenslanders. Do not make last weekend a flash in the plan. Look at what is happening around the world where many countries and some states in the US have banned Uber, can they all be wrong?

I encourage you, as I am sure many others have, to keep up the good work.

Kind Regards,
Catherine Hall

From: Kim McInnes <Kim.McInnes@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Sunday, 4 January 2015 8:05 AM
To: Vikki Paroczai
CC: Catherine Hall
Subject: FW: Uber.

For the system please

Kim McInnes
Executive Assistant to the Treasurer and Minister for Trade
Office of the Hon. Tim Nicholls MP | Treasurer and Minister for Trade
Phone: 07 3719 7215 | Fax: 07 3220 6224 | Mobile: Parliament House: 07 3406 7401
Executive Building | 100 George Street | Brisbane | QLD 4000
GPO Box 611 | Brisbane | QLD 4001

Great State. Great Opportunity.

From: [Redacted]
Sent: Saturday, 3 January 2015 8:20 PM
To: [Redacted]

Contrary to Public Interest.
when stories are being put up about how not to get raped in an uber car!!!

To All Recipients,
I am forwarding Uber stories which enforce the fact that Taxis as part of the Passenger Transport industry need to be regulated. Safety is the number one priority and that can only be achieved by enforcing the laws of the state in a determined way and banning illegal ride-sharing companies (read illegal taxi companies.) I should add here that there are legal ways for Uber to enter the industry and they do have options.

Is it FAIR that an industry which serves the rich and the disadvantaged equally well is being hijacked by a company of Silicon Valley cowboys whose only contribution is an app and a healthy amount of greed. Think surge pricing up to ten times the standard fare when demand outstrips supply. New Years in Brisbane 4 to 4.5 times normal rate. Uber ill argue this is a redistribution of wealth and perfectly legitimate (of course they get more than their fair share).
What happens when the Taxi industry with its 3000 small business owners is no longer viable and there are no other options for those who can’t afford the fares?

Is it FAIR that individuals at the top of the political elite (think Premier, Transport Minister & LNP President) say you are being out marketed, advertise more. ADVERTISE against a company that is operating ILLEGALLY (that has to be one sick joke), has a capitalisation of $40 Billion, employs hundreds of lobbyists, has the media in Australia eating out of their hands, pays no tax in Australia, hasn’t even got a phone number, avoids any kind of regulatory costs because Uber (according to them) is not a Taxi company but a communication platform. This despite the fact that they receive all the funds from the fares with credit cards being processed through Singapore and funds being transferred to their country of company registration The Netherlands. The drivers are then remitted their 80% share weekly back to Australia.

Is it FAIR that the Taxi industry has to go to war against an invader with both hands tied behind our backs because our Government won’t enforce the laws in any meaningful way. Laws that the taxi industry has abided by for decades. The question I get asked every single day is why? I for one would certainly like an answer from our leaders.

Is it FAIR to ask for a level playing field. Is that too much to ask in recognition of the services that taxis have provided in Queensland over the last eighty years or so. Taxis that operate 24/7, taxis that by law have to perform a service up to 40kms from their current position, to name a couple of our obligations.

I ask you all to support a FAIR go and have your voices heard in the corridors of power. I don’t for one minute say the taxi industry is perfect, we can always improve. The same can be said for any industry and for that matter any Government but we all deserve a fair go.

If more information is required I can be contacted on

Kind Regards,
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Catherine Hall  
Departmental Liaison Officer  
Office of the Treasurer and Minister for Trade  
Queensland Government  

Phone: 3035 1932  
Fax: 3211 0122  
Email: catherine.hall@treasury.qld.gov.au

Forwarded by Catherine Hall/QO/QTreasury on 10/09/2014 09:38 AM

From: Kim Mclnnes <Kim.Mclnnes@ministerial.qld.gov.au>  
"Catherine.Hall@treasury.qld.gov.au" <Catherine.Hall@treasury.qld.gov.au>,  
Date: 09/09/2014 05:39 PM  
Subject: FW: News update

For the system please.

Kim Mclnnes

Executive Assistant to the Treasurer and Minister for Trade  
Office of the Hon. Tim Nicholls MP | Treasurer and Minister for Trade  
Phone: 07 3719 7215 | Fax: 07 3220 6224 | Mobile: | Parliament House: 07 3406 7401  
Executive Building | 100 George Street | Brisbane | QLD 4000  
GPO Box 611 | Brisbane | QLD 4001  
Great State. Great O

SEE OUR DETAILED PLAN
This is not a constituent. Would you please bring to the Treasurer's attention if appropriate.

Thank you.

Kim

Electorate Officer
Office of The Hon Tim Nicholls MP
Treasurer and Minister for Trade
Member for Clayfield

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Dear Tim,

I am very aware of the level of interest that exists surrounding ride-sharing as an issue and given the sheer volume of that the issue attracts both here and around the world I try to abstain from sending a great deal of literature accordingly.

This particular article however, and its attendant comments at the end, are so well written and effectively cover off issues that I felt compelled to pass it on.

Please click here to read the story by pando.com journalist Carmel Deamicis, written in January 2014.
It is worth noting that this was done prior to the latest capital raising by Uber that saw them raise USD1.2 billion, raising the revised market capitalisation of some USD 18.2 billion.

With the sheer volume of litigation that Uber is currently involved in, the test of their business model will be determined by whether they survive should all court outcomes be adverse.

Sadly, even if the empire crumbled tomorrow founder and CEO, Trevor Kalanik, will be a billionaire so I doubt there is a "care factor".

Contrary to Public Interest

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Exclusive: Uber driver accused of assault had done prison time for a felony, passed background check anyways

BY CARMEL DEAMICIS
ON JANUARY 6, 2014

Last month, Pando reported that an Uber driver in San Francisco had been accused of verbally and physically assaulting a passenger, James Alva. According to Alva, the driver called him a "dirty Mexican faggot" and then struck him several times when Alva tried to take a photo of him and his license plate to send to Uber.

http://pando.com/2014/01/06/exclusive-uber-driver-accused-of-assault-passed-zero-to...
The company confirmed that the alleged attacker was an Uber driver. However, since the police did not arrest the driver when called to the scene, the company chose not to investigate the incident further. At the time, Uber said it would temporarily suspend the driver, but not permanently ban him from driving for the company. [Updated: Since this post was published, Uber emailed to say the company deactivated this driver's account from the system in December. Uber has not yet commented as to what prompted this change of heart.]

Throughout, Uber insisted that the driver had passed their standard background checks.

However, Pando has since learned that the driver — 28-year-old San Francisco resident Daveea Whitmire — has a criminal record, including felony and misdemeanor charges, and at least one felony conviction involving prison time. How, or why, Uber missed — or ignored — this criminal history is unclear.

Here are the facts: In 2009 Whitmire received a felony conviction for selling marijuana and was sentenced to prison time. In 2012, he was arrested again and charged with another felony for buying cocaine to resell, and a misdemeanor for resisting a public officer. In April 2013 Whitmire missed a preliminary hearing for his case, prompting a judge to forfeit his $100,000 bail and issue a warrant for his arrest.

The most recent record is from his probation officer on October 29, 2013, requesting that Whitmire's probation be revoked due to an unspecified violation. The petition was filed a mere four weeks prior to Whitmire driving for UberX and allegedly attacking James Alva.

Whitmire's criminal records are public, available in the San Francisco courthouse for those willing to request them. And yet, not only did Uber seemingly miss them, but after the Alva assault case came to light the company published a statement citing its background checks as proof of its commitment to safety. Speaking today, an Uber spokesperson told me “We have a zero-tolerance policy for drugs and alcohol offenses.”

However, when I asked specifically about Whitmire, the spokesperson declined to comment further and instead asked me to send further questions by email. They then called back to ask us to send over our copies of Whitmire’s court records.

Updated: Here is Uber's response:
Uber works with Hirease to conduct stringent background checks, which all drivers must undergo and clear to partner with Uber. This driver had a clean background check when he became an Uber partner in October. Uber maintains a zero tolerance policy for any alcohol and drug-related offenses on any background check with any partner nationwide, unlike, for example, the taxi industry in San Francisco, which permits drivers with DUIs and drug offenses.

By Uber’s own admission, the company ran Whitmire through a background check this past October. But his first felony charge occurred in 2009 and his second felony and misdemeanor charge happened in 2012. **[Updated: We were unable to reach Daveea Whitmire for comment.]**

So the question remains: How did Whitmire slip through the net? And why was a driver who has served prison time for a felony merely “suspended” by Uber after the alleged assault? Why didn’t the benefit of the doubt go to the passenger who captured some of the incident on his iPhone?

According to experts, there are two reasons a background check might have overlooked Whitmire’s records. “One [reason] is that they’re not doing [checks] at all which is possible. It’s very possible,” private investigator Brian Willingham tells me. “Or, they’re doing such shitty background checks it won’t come up.” Willingham has 12 years of experience as a P.I., and he currently runs the investigative firm Diligentia Group. **[Updated: following the original publication of this post, Uber confirmed they use Hirease for their background checks.]**

http://pando.com/2014/01/06/exclusive-uber-driver-accused-of-assault-passed-zero-to... 16/09/2014
When the California Public Utilities Commission legalized ridesharing in September 2013, it required the so-called Transportation Networking Companies to perform "national criminal background check[s] including the national sex offender database." Unfortunately, such an official sounding decree is a lot of bark with no bite.

National background checks vary wildly in quality, scope, and validity. “A background check is whatever you want to call it. It’s not necessarily a particular set of instructions,” Willingham says. “You can do anything from $15 background checks, to billing out a client for $100,000 background checks which involve digging into every piece of dirt in a person’s past.”

Anyone could buy a $15 background check off the Internet that simply searches available online records. But not all court records in all states are online for the public. In fact, in San Francisco public records can only be retrieved in person at the courthouse. As a result, cheap, unofficial background checks can easily miss crucial information and prior convictions.

Ridesharing startups don’t have the oversight of traditional taxi companies in California. In most major cities, taxi companies are required to do Live Scan, fingerprint-based background checks of their drivers through the Department of Justice and FBI systems. According to William Rouse, the former President of the Taxicab, Limousine & Paratransit Association, the background check results go straight to the transportation regulatory agencies for vetting, not just to the taxi companies themselves.

In addition to combing official databases, the Live Scan also updates after the fact. If a driver gets arrested for raping someone after being hired, the company will be notified. In contrast, other background checks are a static picture in time.

“The driver has a criminal record, including felony and misdemeanor charges, and at least one felony conviction involving prison time.”

“The reason this is important is because sometimes taxi drivers do get DUIs and we want to pull them out of service immediately,” William Rouse, the former President of the Taxicab, Limousine & Paratransit Association, says. “But you can’t necessarily rely on the driver to tell you that happened.”

The cost of a Live Scan ranges depending on the agency that performs it and how
many databases an employer chooses to check (the DOJ, FBI, and Child Abuse Central Index). On average, the full scan for one person costs $70-$80.

“People do background checks because it sounds like good PR,” private investigator Willingham says. “But at the end of the day, your background check is only as good as what you’re going to put into it.”

Jordanna Thigpen, a trial lawyer in Los Angeles and the former Executive Director of the San Francisco Taxi Commission, hadn’t been following the recent ridesharing legalization in California. She was shocked to find out the CPUC hadn’t dictated Live Scans for the background checks. “The Live Scan is really the only way to accurately tell who you’re hiring,” Thigpen says. “I can’t believe that the DOJ requirement isn’t what they meant. I just can’t believe that.”

The San Francisco Municipal Transportation Authority (SFMTA) registered exactly that complaint with the CPUC back in August. In a letter, the SFMTA director said:

In light of the SFMTA’s longstanding use of fingerprinting and Live Scan background checks, a Commission decision that applies a lower standard to TNC [ridesharing] drivers could produce the unintended consequence of populating the TNC driver pool with candidates who have been rejected as taxi driver applicants precisely because of their criminal histories.

However, the CPUC didn’t listen, ridesharing companies reportedly don’t do Live Scans (when asked directly if they did Live Scans, an Uber spokesperson declined to comment), and drivers like Daveea Whitmire, with prior felonies including for drug offenses, can slip through the cracks.

***

Another reason Uber might have held back on firing the driver is because the company is struggling with supply and demand issues. There frequently aren’t enough drivers for all of Uber’s customers, leading to controversial policies like the company’s surge pricing scheme.

Uber is not alone in struggling to scale — the supply-demand problem plagues all ridesharing companies. For customers to rely on these new transportation
technologies, the service must be reliable, with plenty of cars always on the road. But building such a network from the ground up is no small feat, and we're seeing ridesharing companies face these scaling pains more and more. Lyft recently rolled out its own version of surge pricing, called Prime Time Tips, for exactly the same reason as Uber: Not enough drivers during busy hours.

But a strategy of treating driver supply as more important than customer safety could backfire for transportation networking companies. For a startup that argues cities don't need government regulated ways to get around, the public perceptions of Uber matter. Especially when many cities and taxi groups are begging for a reason to sway public opinion into the anti-Uber camp. And especially when Uber is rumored to be priced at an absolutely do-no-wrong $4 billion valuation.

At what point does Uber recognize the safety of its customers is not only "its problem," but a real threat to its growth?

***

Seth Bender was the first alleged Uber driver assault victim to make the news. He grabbed an Uber in D.C. at the corner of 9th and U streets NW. When he burped and excused himself, the driver allegedly began screaming about how he hated homosexuals, spit in Seth's face, then slapped him.

Monica (not her real name) was the second. She told police that when she was exiting the car, her driver grabbed her, causing her to fall and hit her head. She said he then raped her. The prosecutors dropped the charges due to conflicting evidence, even though D.C. police thought the case was strong.
Bridget Todd, who has written for publications ranging from The Atlantic to Jezebel, was the third. She kissed her husband in the back of an Uber car, inciting the ire of the driver. She tweeted that he followed her out of the car and choked her.

James Alva was the fourth.

In nearly all of these cases, Uber has responded in the same way, saying it's not responsible for the conduct of its drivers. CEO Travis Kalanick shared his response to press reports in an internal company email, published by Gawker: "[F]or whatever reason these writers are starting to think that we are somehow liable for these incidents that aren't even real in the first place."

That statement is odd. Kalanick wouldn't be the first Valley CEO to plead "we're just a platform" to distance itself from liability. But "incidents that are even real in the first place"? That's a hell of a leap for someone not in the car to make.

Alva was in a daze after his encounter with Uber driver Daveea Whitmire, but what he found even more unsettling than the attack was Uber's response to the situation.

Alva claims the company's San Francisco community manager Matthew Hearns called the next morning and showed no remorse for what had happened. In fact, Alva says Hearns never once apologized or even asked him for his version of events. Instead, Hearns brusquely explained that Uber would comply with any law enforcement investigation but would not conduct an inquiry of its own. The driver would be suspended, but not terminated.

Speaking at the time, an Uber spokesperson gave me a similar brush-off, asking: "[W]hat would you propose that we do? [W]e're a technology platform that connects riders and providers, so it's not our job to investigate."

"What's it like when a company you think has your best interests at heart really doesn't?"

Despite Kalanick's protestations, Uber isn't a free-for-all platform. Unlike businesses like eBay or Craigslist where anyone can list merchandise, Uber supposedly has strict quality control. Drivers without criminal records are routinely kicked out of the service just for getting negative customer reviews.
Liability is a touchy subject for Internet companies. Content sites have already successfully lobbied for their liability to be limited by federal law. Section 230 of the Communications Decency Act states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."

In other words, since Internet Service Providers are the conduits for the information and not the creators, they’re free from legal repercussion.

The law is championed by free speech organizations like the ACLU and the Electronic Frontier Foundation. Here’s how the American Civil Liberties Union describes it:

"Under Section 230, a website can provide a platform for all speech without worrying that if one of its online users posts something stupid, critical, defamatory, or unlawful, the website itself can be held responsible. What does this mean for the web as we know it? Almost everything. It means that Yelp can’t be held legally responsible for a negative restaurant review written by one of its users. It means Craigslist doesn’t have to screen every personal ad to make sure it isn’t a cleverly-disguised prostitution pitch."

Using this law, courts have time and time again ruled that Internet Service Providers aren’t responsible for the words or crimes of their users, even if said crimes were facilitated through the site.

When it comes to real-world service providers like Uber, Lyft and Sidecar, the law is less clear. These companies emphasize the fact that they’re platforms matching willing drivers and passengers, not transportation providers themselves. They insist that, like these sites, this limits their liability.

It’s for that reason that Uber reportedly refuses to compensate customers for conflicts with drivers, aside from refunding the ride fare (reached for comment, the company would not confirm this policy on the record). It’s also the reason the company is loathe to publicly admit any wrongdoing alleged to have been perpetrated its drivers, often refusing to even investigate the allegations.
Exclusive: Uber driver accused of assault had done prison time for a felony, passed ba...

If prosecutors don’t press charges against drivers, as was the case with Alva, Monica*, Seth, and Bridget, Uber washes its hands clean of the incident too. Drivers can be back on the road in days.

As far as we can tell, Uber is the only transportation network company whose drivers have been accused of assault. There are a few mentions of Lyft driver issues including a driver text-stalking a former passenger, and a Facebook complaint of an aggressive Lyft driver. But in those cases, Lyft responded very differently than Uber, apologizing to the rider and promising to swiftly investigate the issue.

That said, Lyft and Sidecar’s terms of service both say roughly the same thing as Uber’s. They preemptively defend themselves from liability behind the “we’re just a platform” argument.

Uber: “For the avoidance of doubt: Uber itself does not provide transportation services, and Uber is not a transportation carrier...Uber under no circumstance accepts liability in connection with and/or arising from the transportation services provided by the Transportation Provider or any acts, action, behaviour, conduct, and/or negligence on the part of the Transportation Provider.”

Lyft: "LYFT OFFERS INFORMATION AND A METHOD TO CONNECT DRIVERS AND RIDERS WITH EACH OTHER, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY MANNER AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES VOLUNTARILY PROVIDED TO ANY RIDER BY ANY DRIVER USING THE LYFT PLATFORM."

Sidecar: “SIDECAR OFFERS A METHOD TO CONNECT DRIVERS AND RIDERS WITH EACH OTHER, BUT DOES NOT AND DOES NOT INTEND TO PROVIDE TRANSPORTATION SERVICES OR ACT IN ANY MANNER AS A TRANSPORTATION CARRIER, AND HAS NO RESPONSIBILITY OR LIABILITY FOR ANY TRANSPORTATION SERVICES VOLUNTARILY PROVIDED TO ANY PASSENGER BY ANY DRIVER USING THE SIDECAR PLATFORM.”
Note: The capitalization is the companies' own emphasis, not mine.

If your driver attacks you, or gets drunk and runs off a cliff with you sitting next to him, these companies are telling you upfront that they're not responsible.

This wouldn't be so troubling if passengers adopted the same “buyer beware” attitude as they do with true platforms like eBay. But few do. After all, these companies stress their commitment to safety. All three promise they perform background checks to vet drivers. They take a commission off each transaction. Lastly, they regulate their drivers' appearance, behavior, and service, ranging from Lyft's pink mustaches and fist bumps to Uber's clean, professional look. No one tells a guy listing Star Wars action figures on eBay to take a shower first.

To most consumers, these companies are not platforms. Many don't even realize that Uber doesn't even consider its drivers to be company employees.

One of the four passengers whose Uber assault cases went public certainly wasn't aware of the distinction. This person asked to be quoted anonymously because they had received death threats from Uber supporters after their case went public.

In a phone interview, this person reflected on how they used to love Uber, to the point of owning Uber t-shirts and extolling the virtues of the brand to anyone who would listen. But after their incident with an Uber driver, the company denied responsibility and tried to discredit them.

“What's it like when a company you think has your best interests at heart really doesn't?” this person asks. “I have not used Uber since that incident but I still recommend it to friends. I tell them, 'You may feel lulled into a false sense of security but you should know you're really on your own, and Uber is not on your side.'”

Gil Silberman is a managing partner at Equity LLP law firm who works with many venture-tech companies. He posts frequently on Quora about the legality of Uber, Lyft, and Sidecar. He told Pando his thoughts on the platform argument:

“It's funny for them to say, 'We're not a transportation company, we're a platform.' That's like Peet's saying, 'We're not a coffee company, we're arranging a transaction between a barista and a customer.' If you look at what it is to provide a service: Are they doing background checks on the drivers, are they establishing standards for what kinds of cars show up, are
they branding their cars with uniform look, do they do inspections on the
cars? The answer to all of these is yes. If you were just arranging
information between people you don’t do a background check. All these
things are beginning to look like these agencies are involved in the business
of providing a consistent service. It’s not just a Craigslist.”

As transportation apps grow in popularity and legitimacy, this raises a few questions.
Are startups like Lyft, Uber, and Sidecar liable in the eyes of the law for what happens
when people use their application? How well do they vet their drivers? And most
importantly: What responsibility are they willing to take when things go wrong?

The issue became even more urgent and pertinent following a tragic accident in San
Francisco on New Year’s Eve. A 6-year-old girl — Sophia Liu — was hit and killed by
an Uber driver while crossing the street with her mother and brother. Uber was
criticized for instantly denying culpability, before the full facts of the situation were
even released.

***

Since no
Transportation
Networking
Company’s
assault case has
gone to trial, it’s
not entirely clear
to what extent
these tech
startups are
responsible for their drivers in the eyes of the courts. Like other disruptive industries,
the answers will come in time, helped in part by cases like Alva’s.

Experts have some predictions about how a ridesharing assault case could play out in
court. After all, Lyft, UberX, and Sidecar operate remarkably similarly to taxi
providers, at least in terms of hiring. They both hire drivers as independent
contractors, run background checks to vet them, and give drivers mandates in terms
of appearance and behavior.
"If I were advising Uber I would try to make them seem as much as Craigslist as possible," University of California Hastings law school professor Lawrence Levine says. "But there's a difference. With Craigslist, you don't pay them money when you post an ad." [Correction: Users do pay Craigslist to post some ads, like job listings, but not others. The fee is a set amount, not a percentage cut of a transaction.]

In contract, transportation networking companies take a percentage cut of each transaction. In Uber's case, that brings in boatloads of money. The startup's internal revenue numbers were leaked to Gawker a month ago. The site estimated that Uber makes roughly $213 million a year, some of which goes towards the cost of operations and scaling. It's rumored to be valued by investors at $4 billion, with Lyft valued at $2.75 billion. Sidecar's valuation hasn't been leaked publicly, but we can assume it's much less since the company has raised significantly less capital than its competitors.

According to lawyer Janelle Orsi, the rideshare fee structure may wind up being one factor the courts weigh to decide these companies' liability. Orsi is the head of the Sustainable Economies Law Center, and she specializes in sharing and cooperative systems. "If [Lyft was] just connecting people they would only be charging for the connection," Orsi says. "They would charge $3 per time. Not a percentage."

Another way transportation networking companies might be held liable is for negligent hiring — not properly screening said individuals prior to hiring them. The companies try to shield themselves from such a charge by saying their drivers aren't employees because they're independent contractors, a term defined by the IRS as, "A business owner or contractor who provides services to other businesses."

But there's a problem with this logic: Most taxi companies hire their drivers as independent contractors too. They've done so ever since the 1970s and 1980s to cut costs.

"Despite Kalanick's protestations, Uber isn't a free-for-all platform."

Despite such practices, taxi companies, and other service providers who employ independent contractors, have occasionally been successfully sued for negligent hiring. This occurs particularly when said contractors are required, by the nature of the job, to interact with the public. (There are state-by-state exceptions, depending on local codes regulating transportation).
Since ridesharing startups partner with their drivers in a similar way to taxi companies, they too could face the negligent hiring charge if one of their drivers assaults someone. “They don’t have the ability to label themselves how they wish to be labeled and then say, ‘See we have no liability,’” Professor Levine says. “The law would look behind that labeling.”

Likewise, ridesharing companies might face vicarious liability -- a charge that the employee was negligent while doing work for the employer. In this case, a company is liable “vicariously” since the employee represents the business.

Generally though, a company can’t be charged with vicarious liability for independent contractors. And at the moment, all ridesharing companies label their drivers as independent contractors, not employees.

All this could change if a few Lyft and Uber drivers get their way. These individuals have separately filed class action lawsuits against the respective startups saying they deserve to be classified as employees, not independent contractors. The cases are still going through court. Until they are settled, ridesharing companies are unlikely to face any vicarious liability charges.

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It’s worth noting that taxi companies have also faced their share of driver-passenger assault situations. “No one can safeguard against random unprovoked criminal conduct,” lawyer Thigpen admits. “It happens every day.”

The real problem here is not that a handful of Uber drivers have allegedly assaulted their passengers. It’s that there’s not a good regulatory framework in place to vet those drivers in advance. Furthermore, since ridesharing companies are so new, they don’t have systems in place for handling said situations, in terms of investigating allegations and compensating victims.

Lastly, and most importantly, users don’t know whether they’re protected hopping in cars with ridesharing strangers. The companies have sent mixed signals about how thoroughly they vet drivers and how much they value passenger safety. When it suits them, they claim to care about safety and background checks, and when it doesn’t suit them, they call themselves a platform and deny responsibility.

This is the same issue that originally faced Airbnb: Users had a sense of security through the site, one that the company wasn’t originally willing to support.
Brian Chesky talked to Sarah Lacy about that at PandoMonthly a year ago. The first major incident to blow up in Airbnb's face occurred in 2011. A woman rented out her home on Airbnb and had it destroyed by meth users. The company tried to cover up the situation and pretend like it had dealt with everything, in part to avoid legal culpability.

That failed and the woman continued to go public with her story about the systematic dismantling of her privacy and her home. Eventually Chesky decided that Airbnb had to "be Airbnb" and "do what [we] think is the right thing to do," even if that meant accepting huge amounts of fiscal liability.

He publicly apologized, admitted Airbnb's responsibility in the incident, signed a check to the woman, and introduced a $50,000 insurance policy for anyone who rents their home through the service. That policy now covers $1 million in damages. As Chesky said on stage:

"I think the best thing you can do as CEO is [realize that] ultimately, as Ben Horowitz has said, everything is your fault...Good and bad, it's all your fault...So yes, we have a saying now: Put the customer first. Put the user first. Focus on love. If they love you, the best marketing is investing in user experience and then the users will market for you."

There are four billion dollars, not to mention the safety of thousands of passengers, riding on Travis Kalanick having a similar epiphany.

[Illustrations by Cam Floyd for Pandodaily]
From: Jenna Birt <Jenna.Birt@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Friday, 19 December 2014 8:58 AM
Subject: FW: Premiers Support For Uber.

Catherine Hall

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From: Jenna Birt <Jenna.Birt@ministerial.qld.gov.au> on behalf of Treasurer <Treasurer@ministerial.qld.gov.au>
Sent: Thursday, 18 December 2014 10:28 PM
To: Catherine Hall
Subject: FW: Premiers Support For Uber.

Contrary to Public Interest

Sent: Thursday, 18 December 2014 10:28 PM
To: Broadwater; Mudgeeraba; Burnett; Ipswich; Attorney; Albert; Rockhampton@parliament.qld.gov.au; Brisbane Central; Ipswich West; Whitsunday; Thuringowa; Coomera; Natural Resources; Local Government; Gladstone@parliament.qld.gov.au; Redcliffs@parliament.qld.gov.au; Capalaba; Communities, Child Safety and Disability Services; Police; NPRS; Bulimba; Gaven@parliament.qld.gov.au; Redlands; Noosa; Indooroopilly; Moggill; Pumicestone; Nanango; Gympie; Springwood; Morayfield; Condamin@parliament.qld.gov.au; Murrumba; Burleigh; Townsville; Warragul; Pine Rivers; Gregory; Yeerongpilly; Mount Isa@parliament.qld.gov.au; Greenslopes; Cook (Thursday Island); Cairns; Dalrymple@parliament.qld.gov.au; Beaudesert; Education; Waterford; Stafford; Maryborough; Maryboro; Everton; Caloundra; DAFF; Burdekin; Sandgate; Bundamba@parliament.qld.gov.au; Chatsworth; Southport; Mackay@parliament.qld.gov.au; Ashgrove; Clayfield; Treasurer; thepremier@premiers.qld.gov.au; Stretton; Isala@parliament.qld.gov.au; Mulgrave@parliament.qld.gov.au; Environment; Logan; Mount Coot-tha; Lockyer; Cleveland; Kallangur; Woodridge@parliament.qld.gov.au; Callide; Algester; Ferny Grove; speaker@parliament.qld.gov.au; Mount Ommaney; Hervey Bay; Southern Downs; Health; Transport and Main Roads; Mermaid Beach; Sunnybank; Currimbin; Lytton; South.Brisbane@parliament.gov.au; Barron River; Mansfield; Toowoomba North; Nicklin@parliament.qld.gov.au; Nudgee; Keppel
Cc: 'Bill Parker'; JTighe@blackandwhitecabs.com.au; 'Greg Webb'; 'Qld T/Port Keith Boyer'; commissioner@police.qld.gov.au; 'Q/Transport Gerida Schull'; greg.w.smith@transport.qld.gov.au; 'Qld T/Port Janine Girvan'; 'Qld T/Port Simon Cook'; 'Qld transport Wayne McGovern'; 'Warren Darnell'; 'Bert Van Manen MP'
Subject: Premiers Support For Uber.
Dear Premier,

At last your support for Uber is now on the record, only eight months after you declared you wouldn't allow your daughters to use the service. Apparently it's fine for your daughters but it's fine for every other Queenslanders' daughters to be subject to a service that is illegal, unregulated and from Uber's own website and I quote "YOU UNDERSTAND THEREFORE, THAT BY USING THE APPLICATION AND THE SERVICE, YOU MAY BE EXPOSED TO TRANSPORTATION THAT IS POTENTIALLY DANGEROUS, OFFENSIVE, HARMFUL TO MINORS, UNSAFE OR OTHERWISE OBJECTIONABLE, AND THAT YOU USE THE APPLICATION AND THE SERVICE AT YOUR OWN RISK."

Premier for eight long months you have ignored your duty of care and your oath of office to ensure the safety of Queensland citizens and to enforce the laws of the state. One would have to wonder how much has been contributed to the coffers of the LNP and the Young Liberals by Uber.

Your Government claims to support small business yet you are prepared to throw 3000 plus Mum and Dad taxi businesses to the wolves and support a tax avoiding US company based in the Netherlands processing credit cards through Singapore.

The morals and ethics of Uber are now out there for all to see. The price gouging in Sydney with fares going to 4.5 times the normal rate during the hostage crisis says it all, Premier do you really think this is a company you should be allowing to break our laws and potentially put our citizens in harm's way?

Premier, I am also beginning to wonder where the morals and ethics of the LNP are. Firstly the LNP President who, in a parting shot at a meeting advised "a rape and murder would solve the problem for the Taxi industry". Secondly a Premier who is ignoring his oath of office and ignoring the avalanche of information from around the world on Uber's unsavoury tactics which do nothing other than support anarchy.

In the interests of full disclosure I advise you that this email will go every MP in Queensland and every media outlet I can find.

Kind Regards,

Contrary to Public Interest
Got this correspondence from the Premier's office today. I assume "regulatory standards" is a euphemism for "pay the government a big fee"

Thank you for your email in support of Uber services. I have been requested to reply to you on the Premier's behalf.

The Premier understands that many Brisbane and Gold Coast residents like you, see Uber as a valuable alternative to regular taxi services. The Premier also appreciates your support for Uber continuing to operate in Queensland.

The Queensland Government supports innovation and contestability in the delivery of public passenger services. However, it is important that this not occur at the expense of public safety. The Government has made it clear that new companies, like Uber, must meet the existing requirements that apply to all other participants in the market.

As you may be aware, operators who do not meet the existing standards have been instructed to cease their operations until they are met. To ensure public safety, the Department of Transport and Main Roads is continuing to investigate and take appropriate enforcement action against drivers operating in breach of these requirements.

However, the Government is willing to work with Uber to ensure it meets the safety and regulatory standards.

Again, thank you for bringing your concerns to the Premier's attention.

Office of the Premier

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Please consider the environment before printing this email.
How Ho

From: Matthew Geck
Sent: Thursday, 4 September 2014 4:32 PM
To: Matthew Clark; Jordan Herd; Jim Hurley
Subject: RE: Uber watch

Update,

Ironically Uber has now been banned in Germany.


From: Matthew Clark
Sent: Monday, 25 August 2014 4:52 PM
To: Jordan Herd; Jim Hurley; Matthew Geck
Subject: Fw: Uber watch

FYI

Matt Clark
Principal Economist
Microeconomics Branch
Economics Division
Queensland Treasury and Trade
Ph: 30356477
e-mail: matthew.clark@treasury.qld.gov.au

----- Forwarded by Matthew Clark/TO/QTreasury on 25/08/2014 04:51 PM -----

From: John Gebbett/TO/QTreasury
To: Peter Johnson/TO/QTreasury@QTreasury, Jozef Latten@treasuryqld.mail.onmicrosoft.com, Melanie Hall/TO/QTreasury@QTreasury, Patrick Wildie/TO/QTreasury, Matthew Clark/TO/QTreasury@QTreasury, James thompson@treasuryqld.mail.onmicrosoft.com, Alex Griffin/TO/QTreasury@QTreasury

Date: 25/08/2014 04:43 PM
Subject: Uber watch


Interesting ABC article on DTMR losing its battle against Uber,


Cheers,

Matt Geck
Economist
Economics Division
Queensland Treasury and Trade
Level 7, Executive Building, George Street
Phone: 3035 6469
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Great state.
Great opportunity.
And a plan for the future.

Queensland
Government
Pages 109 through 111 redacted for the following reasons:
- - - - - - - - - - - - - - - - - - - - - - - - - - - -
Contrary to Public Interest
Thanks for that

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So FYI, regulation on taxi numbers was reintroduced in the Territory in 2003. As I mentioned, they are undergoing a review of the commercial passenger vehicle industry at the moment. If you’re interested in checking out what they are considering, the current position paper is here: http://www.transport.nt.gov.au/publications/strategies-and-plans/commercial-passerger-vehicle-refomrs
Pages 113 through 273 redacted for the following reasons:

Contrary to Public Interest
Other access available – section 47(3)(f) of the RTI Act
Other access available, section 47(3)(f) of the RTI Act
Other access available, section 47(3)(f) of the RTI Act & Contrary to Public Interest
How Ho

From: Matthew Geck
Sent: Wednesday, 4 February 2015 5:01 PM
To: Alban Pinz
Subject: Taxis
Attachments: IPA Taxi Mess.pdf; Governance and Economics of the Taxi Industry.pdf; Regulation of the taxi industry PC.pdf

Here's a couple of papers on taxis
http://oecdinsights.org/2014/12/22/what-is-a-taxi-regulation-and-the-sharing-economy/

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RTI RELEASE
Taxi mess an old, stubborn failure of government

It will take brave governments to deregulate Australia's taxi markets, writes Richard Allsop. But doing so will be worth the struggle.

The complaints are endless. The taxi driver didn't know the way; the taxi driver did not speak English; the taxi was dirty; the fare was too high; and, if it was after the office Christmas party on a Friday night in December, there was no cab at all.

So why don't we have geographically aware, English-speaking drivers, piloting clean, ever-available taxis around our cities at reasonable fares?

In large part, it is the fault of successive governments, who for decades have put the interests of rent-seeking taxi industry incumbents ahead of taxi customers.

There is no doubt taxi customers are unhappy. Writing in the Daily Telegraph in late 2007, Miranda Devine captured the particular problems of taxis in Sydney:

The December taxi drought now extends into October or any day when there are more than two events in Sydney. Promises by the industry to stagger the 3pm changeover time, which causes the post-lunch taxi drought, have come to nothing, as taxis disappear from 2pm to 4pm.

In Melbourne, train performance was seen as a key factor in the defeat of the Labor Government in last November's Victorian Election, yet surveys conducted by Victoria's Department of Transport have consistently shown a greater degree of customer dissatisfaction with taxis than with the much maligned trains.

So, given that improving the trains was seen as a key performance indicator for the new Victorian government, it was perhaps surprising that, when it came to taxis, nobody seemed to be applying much pressure to governments to fix

Richard Allsop is a Research Fellow at the Institute of Public Affairs.
the problems. Given the situation, it was pleasing to see that the Baillieu Government clearly recognised there is a major taxi problem, by setting up an inquiry, headed by the former ACCC head Allan Fels, to undertake a review of all aspects of the industry.

And when Fels looks at the taxi industry, he will see that the issues with taxis are just as much a problem of poor government policy, as are the problems that afflict public transport systems around the country. This might seem an odd statement, given that taxis have always been provided by the private sector, and rail services are usually a government responsibility, but it is decades of bad public policy which have created a taxi industry monster. It will now take a brave government to slay it.

When it comes to brave governments, Jeff Kennett's 1990s Victorian Government is close to top of the class. Kennett recognised that the taxi industry was failing to deliver for locals and creating a very poor impression for tourists. He took a keen interest in the industry, insisting that all taxis be painted yellow and that drivers wear a uniform. However, these mandated reforms were, in many ways, treating the symptoms of the problem rather than the root causes.

The root of most of the evil is the system of taxi licensing which evolved in each Australian jurisdiction, and indeed in most places in the Western world, in the middle decades of the twentieth century, which restricted the right of new entrants into the industry. Combined with regulations around industry structure, the types of services taxis can provide and the price they can charge, the licensing system has created a deadly policy cocktail.

A typical example of how the Australian taxi industry developed is provided by Swan Taxis in Perth. Founded in 1928, it was initially one of a number of competing taxi companies, but by 1960 it had become the sole operator in Perth, and later in Fremantle also. No problem there, except that, when the Western Australian Government set up the Taxi Control Board in 1964, it gave Swan Taxis a seat at the table to, in the company's own words, allow the industry to 'control its own destiny'. Preventing the development of any competition might be a more accurate description.

People tend to forget just how restrictive transport regulation was in the Australian economy in the 1950s and 1960s. Gradually, most of the silly restrictions on how many interstate airlines there could be, how far you could cart bread from the bakery which produced it, or which items could only be carried by rail were removed, but the restrictions on taxis have remained.

As with any artificially restricted product, the cost of taxi licenses soared unnaturally high and became a tradable commodity. These days, licenses are often held by passive investors, impressed by the capital growth and steady annual returns. License values vary around the nation, with the highest being $650,000 on the Gold Coast, while Melbourne tops the capital city values at around $530,000. While there are still plenty of owner-operators in the industry (usually employing a driver or two to do the night shift), many operators now hold licenses assigned to them by passive investors. In Melbourne, licenses are currently assigned for about $35,000 per annum, not at a bad return on the license holder's secure investment. In most cases, the operators assigned the licenses of the passive investors are fleet operators who then hire drivers.

The most obvious problem created by restricting the ability of new entrants to enter the market is stagnation in the number of taxis. While no Australian city matches the situation of New York, where there were 1400 fewer cabs in 2004 than in 1937, for lengthy periods, Australian taxi numbers have failed to keep pace with population growth. For instance, Perth managed to avoid increasing taxi numbers for 14 years between 1989 and 2003. Logically, growth in taxi numbers should have exceeded population growth as prosperity has increased and more people should be able to afford taxis.

Imagine if, for the past few decades, coffee shops had been licensed like taxis. There would only be a few more now than there were in the 1970s, they would all charge the same for a cup of coffee, none would be allowed to offer any premium service, they would largely employ staff with no knowledge of coffee and they would charge a ten per cent surcharge on credit card payments.

Which brings us to Cabcharge, the company founded in 1976, with the laudable aim of providing a way for the taxi industry to handle non-cash fares. The founder of the company, Reg Kermode, is still in charge of what is now a listed company which
is big enough to appear in the ASX 200. In an excellent 2010 paper, looking at the effect of taxi regulation in Sydney, economist Peter Abelson explained that:

The Cabcharge, Premier and Legion taxi radio networks control over 90 per cent of the taxi operators and taxis in Sydney, with the latter two networks having a strong allegiance to Cabcharge. This virtual monopoly is made possible because the government regulates that all operators must affiliate with an established network.

It is not just in Sydney that Cabcharge has a dominant position, as it is a major shareholder in taxi businesses in other Australian cities as well. Governments around the country have entrenched the position of Cabcharge by issuing cards for users of the multipurpose taxi schemes that only work on Cabcharge machines. This is one of many ways in which governments have not assisted the creation of more competitive taxi markets.

As part of its attempt to operate in the Sydney taxi market with its Lime Taxis, Macquarie Bank spent millions creating a new payment system, Live, as an alternative to Cabcharge. Lime was based on providing disabled access cabs, but soon after Lime launched, one of the taxi companies in the Cabcharge stable, Taxis Combined, responded by adding 60 wheelchair-accessible Taragos. In response, the competition-averse NSW state government stopped issuing disabled registration plates, effectively killing at birth any potential competition between Cabcharge and Lime.

Last year, the Federal Court ordered Cabcharge to pay $15 million in penalties and costs for contraventions of section 46 of the Trade Practices Act. Yet, it is the successive governments that have established the regulatory regime under which Cabcharge has operated for decades.

While customers are the big losers in the current taxi industry arrangements, non-owner drivers are also doing poorly. Drivers in the taxi industry have rarely been employees. Traditionally, the industry model was
that there would be a 50:50 split of the revenue between the operator and the driver, but that has changed in recent years. The emerging model is that drivers lease a cab from the operator, providing a bailment payment which is more than half the average annual cab revenue. The driver then also has to pay for fuel, repairs, insurance etc. The net effect of this model has been that driver incomes have halved, leaving them earning often little more than $5 per hour.

Customers critical of a driver's lack of geographical knowledge or English should reflect on what they really expect for $5 per hour, especially given that driving a taxi at night is the most dangerous occupation there is, outside street prostitution. Driving taxis really is an entry level job, literally in the case of many drivers, especially in Melbourne. While other states insist that drivers must have held an Australian driver's license for 12 months before acquiring a taxi driver's license, in Victoria the holding of an 'international' driver's license satisfies the requirement. Not only have taxi operators employed large numbers of Indian students, the large taxi depots in recent years have taken to sending staff on overseas recruiting drives. Sourcing drivers from India has become harder for operators in recent months as numbers coming to Australia have crashed.

Of course, there is nothing wrong with immigrant taxi drivers. What is wrong is that there is little incentive for a driver to do well and earn enough to become an owner operator. Instead, to earn the full right to operate you need over half a million dollars. In recent years, the Victorian Government, along with a number of other state governments, issued some extra licenses, often with time restrictions.

Deregulation has occurred in a number of places around the world, including Ireland, New Zealand, the Netherlands and several US cities, and has generally delivered a significantly improved service to users. In 2006, Adrian T. Moore and Ted Balaker published a review of the substantial scholarly literature examining the merits of deregulation and found that most economic studies of taxi deregulation find it to be on net beneficial. Most of the arguments used in favour of restrictions have been shown to be fallacious. A 2007 OECD report concluded that not only did entry restrictions not improve capacity utilisation, but 'on the contrary the case could be made that increased entry and associated economies of density, as well as shorter
Deregulation became a live issue in Australia for a few years after the introduction of National Competition Policy (NCP) in 1995, as states had to review the blatant restrictions on competition in their existing arrangements. In the end, if my investment?Queensland Governments have always supported regulation of the taxi industry in this state.

The 1999 Productivity Commission Report on 'Regulation of the Taxi industry' provided an excellent discussion of the issues involved in compensation and, in particular, whether a government issued license can have property right status. They cited various examples which argued both ways. However, whichever view one takes of the legal position, ultimately, any government going down the deregulation route will probably need to find some sort of compromise between full compensation (which Australia-wide would cost taxpayers several billion dollars) and no compensation which may be somewhat harsh on investors.

And, while there appears to be a growing number of voices pushing for deregulation of Australian taxi markets, it is not just the compensation issue which presents a hurdle for the brave politician.

The reaction to a demonstration of taxi drivers in Melbourne a couple of years ago illustrates the point. While the main concern of those protesting was driver safety, the demonstration also triggered a more wide-ranging discussion about the economics of the taxi industry. Quite reasonably, the host and talkback callers on one Melbourne talk radio station were expressing concern that drivers were earning a pittance (and getting bashed), while owners of taxi licenses were making excellent returns.

However, the conversation took a bizarre turn when one caller argued that the system where fat cat license owners make big profits, at the expense of the humble drivers, was an example of the faults of economic rationalism. Not only did the host not correct the caller and point out that economic rationalists actually oppose licensing systems such as the ones that restrict the numbers of taxis, but he managed to find an economist who accepted that the plight of taxi drivers was an example of 'market failure'!

The conclusion of all involved in the discussion seemed to be that more regulation was needed to stop owners making such big profits and to ensure drivers secure a reasonable income. How typical is it that, even when regulation so manifestly fails, the instinctive reaction of talkback callers, media types, and even some economists, is to look for a solution that involves more regulation, rather than acknowledging the blindingly obvious point that deregulation is more likely to achieve the desired objectives.

A deregulated taxi industry will not mean that taxis are always available and always clean, or that the driver will always know the way, or speak English well, but it will greatly enhance the chances of some of these outcomes occurring. The alternative is clearly not working for anyone, except a small collection of vested interests.
Governance and Economics of the Taxi Industry with Special Reference to Sydney

Peter Abelson

Department of Economics, University of Sydney
Applied Economics

July 2010
Disclaimer

- The author works as a part-time economic adviser to NSW Treasury. This paper is private work. All information in this paper is drawn from public sources or based on data that the author has collected from industry participants or observers. All estimates made and views expressed in the paper are the responsibility of the author. They are not official NSW Treasury views.
Some official views on taxi regulation

Most focus is on entry restrictions

There are many other issues
Productivity Commission, 1999, *Regulation of the Taxi Industry*

- "The (Productivity) Commission has been unable to identify benefits to the community that justify restrictions on taxi numbers. Accordingly, it considers that there is a strong case for the removal of such restrictions"
National Competition Council, Autumn 2000, *Improving our Taxis*,

“The taxi industry is virtually alone among consumer services in having laws that restrict the actual number of taxis providing services. No compelling argument can be made to justify these restrictions. The need for comprehensive taxi reform is urgent.”

- “The Round Table ... concluded that little empirical evidence supported the argument that entry restrictions supported capacity utilisation. On the contrary, the case could be made that increased entry and associated economics of densities, as well as shorter waiting times, warranted subsidies for entry”. 

"IPART remains of the view that there would be value in a full review of the (taxi) industry that touches upon its structure, its viability and the impact of the regulations imposed."
Long-time taxi driver

- “There is a cancer at the heart of the taxi industry. The control of the networks has eroded responsibility and reward for providing a quality service.”
Layout of the paper

- Nature of the taxi industry
- Policy objectives and market regulation
- Major performance outcomes
- Evaluating the costs and benefits of taxi deregulation
- Estimated benefits and costs of deregulation in Sydney
- Policy questions
- Conclusions
Figure 1  Structure of taxi industry in NSW

Regulator
Ministry of Transport via
Passenger Transport Act
and associated regulations

Peak representative bodies
NSW Taxi council (mainly
networks) NSW Taxi Industry
Association (owners and operators)
NSW Taxi Drivers Association

Taxi licence owners
About 3600 owners of 5174
licences
Current price about $400,000

Taxi radio networks
Nominally 6 independent networks
But many inter-relationships
All operators must affiliate to a network

Licence leasing companies
Three main companies
Including two radio networks

Accredited taxi operators
About 4400 operators manage 5174 taxis
80% of operators lease licences
20% of operators own licences

Authorised taxi drivers
About 18,000 drivers
Major regulations: quantity

- Increase in licences since 1990 – 1.4% p.a.
- Cf: 3.5% p.a. annual growth in GDP

- Price of licences: real price rise of 66%
  - 1990, $175,000
  - 2004, $250,000
  - 2010, $400,000

- In 2010, MTI is auctioning 267 new 10-year licences – about 5% increase in numbers

- Why have so few licences been issued?
Regulation of industry structure

- Government (MTI) has outsourced management of industry to networks.

- MTI (2008) states that the "taxicab network provider is considered to be the principle entity for taxi-cab services".

- To be an authorised network must have an "ability and willingness to discipline any user of the network".

- Taxi operator requirements
  - Affiliation to network
  - Network decals, communication devices etc
Regulation of industry structure

- Taxi driver requirements
  - Observe all rules and “reasonable requests” of networks
  - Prohibited from soliciting for work or passing on work to other taxi drivers

- Network performance standards
  - To pick up 85% of passengers within 15 minutes over whole of Sydney, but can off-load to another network with formal written agreement.
Service regulations

- Numerous micro regulations
- Vehicle size
- Go anywhere / any time rule. No specialisation
- No destination signs (with few exceptions)
Price regulations

- IPART recommendations designed to achieve a return on capital and labour to all parties
- IPART maximum fare automatically adopted by all taxi operators
- Night time surcharge, but no peak / off-peak differentiation
- Prices do not clear markets efficiently so taxi drivers cherry pick.
Industry regulation summary

- Excess demand
- Controls of networks
  - Industry player/regulation conflict
- Highly detailed regulations on operators and drivers
- Turn now to performance standards (four sources)
Colmar Brunton national survey: 2002

- Of all Australian cities, Sydney recorded lowest scores for
  - taxi trip satisfaction,
  - taxi driver behaviour and standards.

- 38% of respondents in inner Sydney and 22% of respondents in outer Sydney had tried to get a taxi in the last six months and failed.

- In inner Sydney, 5% of respondents had made a complaint to a taxi-related agency but 26% had felt like complaining and did not do so. The comparable figures for outer Sydney were 4% and 12%.
### Table 1: Bookings and pick-ups in 2008-09 (excluding WATs)

<table>
<thead>
<tr>
<th>Measure</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of bookings requested (000)</td>
<td>12,736</td>
<td></td>
</tr>
<tr>
<td>Number of jobs accepted by taxi drivers</td>
<td>10,100</td>
<td>79.3</td>
</tr>
<tr>
<td>Total pick-ups</td>
<td>8,752</td>
<td>68.7</td>
</tr>
</tbody>
</table>


### Table 2: Pick-up times as % of total pickups made and bookings requested

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>All pick-ups</th>
<th>Bookings requested</th>
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</thead>
<tbody>
<tr>
<td>&lt;15 minutes</td>
<td>92.9%</td>
<td>63.8%</td>
</tr>
<tr>
<td>15-30 minutes</td>
<td>6.3%</td>
<td>4.3%</td>
</tr>
<tr>
<td>30-60 minutes</td>
<td>0.8%</td>
<td>0.5%</td>
</tr>
<tr>
<td>&gt;60 minutes</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other</td>
<td>n/a</td>
<td>31.3%</td>
</tr>
</tbody>
</table>

Source: IPART, 2009
Cook Inquiry 2005

- "Over a very long time the regulatory framework has become distorted. It has protected the interests of established industry players while becoming punitive and ineffective in managing customer service."

- The prime objective of the networks is to extract income and economic rents out of the operators. Only one in six taxi services in Sydney are network booked services. The networks do not provide customer taxi services and have only indirect concern for the quality of the consumer service.
Transport and Tourism Forum National Survey 2009

- Over half the respondents were based in Sydney.

- Three-quarters of respondents regarded taxi services as poor or very poor in Australian cities and Sydney was rated the worst city.

- 90% of respondents said that reform of the taxi licensing scheme should be explored.
Policy objectives and market regulation

- What is the public good or benefit?
- Efficiency (market failures)
- Equity
- “Universal access”
Market failures: introduction

- Note various markets
  - Cruising (hailing), rank and booked markets
  - Plate holders, networks, operators and drivers

- Most of these markets would appear to be competitive without regulations.
Market failures: continued

- Imperfect competition
  - Possible economies of scale in networks (but there are many providers of communications systems)
  - Falling AC of taxi driving (monopolistic competition result). But various offsetting factors (lower waiting costs)

- Externalities

- Asymmetric information
  - Quality of drivers and taxis: case for protection
  - Spatial monopoly in hailing market: lack of information

- Multiple equilibria: $D = f(S) = f(p, \text{user WT})$
  $S = f(D) = f(p, \text{taxi WT})$
Market failures: summary

- Major efficiency concern is deterioration of service quality in deregulated markets.

- Competition can be expected to increase variety of services in the taxi industry rather than the reverse.

- Information failures justify regulating vehicles and drivers for safety issues (and public pricing).

- Other market failures provide little justification for substantive regulation of the industry.
Equity issues

- Protecting consumers
  - All consumers or a subset (wheelchair disadvantaged)

- A “public transport” – consumer rationale.

- Protecting industry – various elements
  - Plate holders existing rights
  - Taxi driver perceptions
Universal or equal access

- What does this mean for taxi services?
- Is the principle reasonable?
- Does the present regulatory regime achieve universal or equal access?
- Can a regulated regime provide universal or equal access?
- Would deregulation provide more universal or equal access?
Evaluation of reform: starting point

Figure 3  Consumer benefits from increase in taxi services
Evaluation: equivalent approach

Figure 4
Basic economic benefits: alternative exposition
Evaluation: adding complications

Figure 5 Adding evaluation complications
Evaluation: off-peak scenario

Figure 6
An off-peak model
Key data assumptions

- AC = $20.20 – LF ($2.43) per trip
- NW = 5 minutes; EW = 11.60 minutes
- 1.8 passengers per taxi
- Weighted average value of time = $27/hour
- New peak hour fare = AC + $2.43
- Off-peak fare = AC - $2.43
- Elasticity of demand with respect to GC = -1
Summary of results

- Table 3, page 18 for full results

- Total annual impacts ($m)
  - Gains to consumers 295.0
  - Losses to taxi industry -51.4
  - Social gains 21.5
  - Total net benefits 265.1
<table>
<thead>
<tr>
<th>Table 3</th>
<th>Summary of results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Estimated annual benefits in peak hours</strong></td>
<td>($m)</td>
</tr>
<tr>
<td>Existing users lower waiting time (Area A)</td>
<td>Q existing x (GC3 - GC2)</td>
</tr>
<tr>
<td>New user benefits (Areas B+ E+ F)</td>
<td>Q new x (GC4 - GC2) x 0.5</td>
</tr>
<tr>
<td>Taxi supplier gains new users (Areas C + G)</td>
<td>Q new x (GC2 - GC1)</td>
</tr>
<tr>
<td>New social benefits (Areas H+J)</td>
<td>Q new x (GC1 - GC4)</td>
</tr>
<tr>
<td><strong>Total benefits</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Transfers**

To suppliers: higher peak hour fares | Q existing x GC2 - GC1 | 72.3 |

| **Estimated annual benefits in off-peak hours** | ($m) |
| New user benefits (Areas B + C) | Q new x (GC2 - GC6) x 0.5 | 14.7 |
| New social benefits (Areas J + K) | Q new x (GC6 - GC7) | 11.1 |
| **Total benefits** | | 25.7 |

**Transfers**

Existing users lower fares (Areas D + A) | Q existing x (GC2 - GC6) | 146.0 |

| **Summary results: all users and suppliers** | ($m) |
| Gains to taxi users | No offsetting losses | 221.3 |
| Gains to taxi suppliers | No offsetting losses | 22.3 |
| Social benefits | No offsetting losses | 21.5 |
| **Total net benefits per annum** | | 265.1 |
Policy question: Why is the taxi industry so strongly regulated?

1. Policy makers have little exposure to economic arguments
2. The analysis is considered flawed
3. The analysis does not deal with the public transport objective of universal and equal access
4. The perceived benefits of outsourcing monitoring and control of 20,000 taxi drivers (regulatory capture???)
The binding issue?

5. The social costs of deregulation are too high / unacceptable.

- Impacts on licence plate holders
- Compensation strategies
  - Slow reform process
  - Increase fares in peak hours
  - Progressive buy back strategy and gov leases out to market
  - Rights issue combined with a buy back strategy

- Impacts on taxi drivers – a widespread but misconceived problem
Conclusions

- Regulations of the taxi industry have produced a virtual monopoly in Sydney.

- There are few market failures in this industry. Other than basic safety regulations, there does not appear to be a strong case for regulation.

- The regulations may be intended to protect the Sydney public by guaranteeing services to all areas within specified regulated times. This is not being achieved and evidence suggest that performance standards are low.
Conclusions

- Estimated gains from free entry and increased competition are in order of $265 million per annum. Over 20 years, this produces a net benefit with a present value of about $2.8 billion.

- To achieve these full gains, the following would appear to be necessary:
  - Reform of oligopolistic industry structure.
  - Peak and off-peak pricing.
  - An independent industry regulator

- Further modelling of the taxi market may refine these results. However, I have little doubt that it would produce broadly similar results.
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ISBN 1 74037 072 4

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An appropriate citation for this paper is:

The Productivity Commission

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Foreword

Taxis and hire-cars provide important transport services. They are also among the most highly regulated industries in Australia. All jurisdictions are required to review their regulatory regimes for taxis and hire-cars as part of the National Competition Policy legislation review process. Some reviews are underway and some are complete, but only one jurisdiction — the Northern Territory — has reached the stage of implementing a reform program for the industry.

The Industry Commission examined taxi regulation in its 1994 report on Urban Transport. This research paper builds on that work — particularly its assessment of the rationales for entry restrictions and fare regulation, and its analysis of compensation and adjustment issues. The paper is intended to complement individual reviews by providing policy makers in different jurisdictions with a common framework for assessing key issues in taxi regulation.

The analysis in the paper demonstrates that the removal of restrictions on taxi numbers would clearly bring benefits to the community. However, the paper recognises that the characteristics of taxi markets differ among jurisdictions, which means that the appropriate level and form of regulation are also likely to differ. Similarly, different circumstances could require different approaches to adjustment and compensation. Partly for this reason, the paper canvasses policy options in these important areas, rather than endorsing any particular approach.

Gary Banks
Chairman
November 1999
Contents

Summary vii

1 Introduction 1

2 The nature of taxi markets 3
   2.1 Market segments 3
   2.2 The rank and hail taxi markets 5
   2.3 Phone bookings 6

3 Assessing the need for existing regulations 9
   3.1 Safety and quality regulation 9
   3.2 Regulating entry 11
   3.3 Fare regulation 18
   3.4 A different regulatory regime for hire-cars? 22

4 Compensation and adjustment assistance 25
   4.1 Some general principles 25
   4.2 Compensation for taxi deregulation 27
   4.3 How much compensation? 32
   4.4 Concluding comments 39

Bibliography 43

BOXES
Box 2.1 Structure of the taxi industry 4
Box 3.1 Taxi deregulation in the United States 13
Box 3.2 Measuring the benefits of taxi deregulation 16
Box 4.1 Licence plate values: what do they comprise? 34
Box 4.2 Compensation and phasing 38
Box 4.3 Factors relevant to the consideration of compensation 41
Summary

Largely because of their 24 hour-a-day availability and capacity to provide door-to-door service, taxis are an important complement to regular scheduled services provided by other forms of public transport. Taxi services are particularly valuable to less mobile groups in the community, such as elderly and disabled people.

It is important that such services are efficiently provided, meet users’ needs and are appropriately priced. There have been long-standing concerns that these objectives would not be fulfilled in the absence of government intervention. Consequently, governments in Australia, and in many other countries, have traditionally tightly regulated the provision of taxi (and hire-car) services.

Entry restrictions have been a key component of the regulatory regimes. Because of this, and commitments made under the Competition Principles Agreement to review regulations that limit competition, all states and territories are required to review their taxi and hire-car regulations. This paper, which draws on an earlier Industry Commission report on Urban Transport (IC 1994), is intended to assist review bodies by providing a framework to assess some of the key issues. The major focus of the paper is on the regulation of taxis rather than hire-cars.

For the most part, the paper explores different policy approaches rather than advocating a particular position. This reflects significant differences between taxi markets and associated administrative arrangements in different parts of Australia (see box) which, in turn, imply that the most appropriate policy response could vary between markets.

Assessing regulation

Regulation of taxis generally encompasses quality and safety, as well as taxi numbers and fares.

Quality and safety regulation

Users do not have the capacity to assess all quality and safety aspects of the taxis they engage. A key example is the roadworthiness of the vehicle. Largely for this
Some regulation to specify minimum levels of safety and service quality is warranted. Nonetheless, some existing regulation does not have a strong rationale. Examples include regulations in some jurisdictions that prescribe maximum vehicle age and the minimum size of taxis.

<table>
<thead>
<tr>
<th>Differences in Australian taxi markets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Across Australia, the nature of taxi markets and the form and extent of regulation and the associated administrative arrangements vary significantly. The following points draw on a range of different markets to illustrate some of these differences.</td>
</tr>
<tr>
<td>• Market segmentation: In small country markets (and the ACT) the ratio of taxis hired from ranks or hailed from the street is small relative to phone bookings. In large markets, such as Melbourne, this 'cruising' trade is far more significant.</td>
</tr>
<tr>
<td>• Industry structure: In Sydney, there are 12 taxi companies and 3 radio networks, whereas Canberra has only one combined taxi and booking service.</td>
</tr>
<tr>
<td>• Participation: Half of Sydney’s taxi licences are held by owner-drivers and half are held by investors. In Western Australia, investors hold about 60 per cent of the licences. Prior to deregulation, investors held 80 per cent of the licences in the Northern Territory.</td>
</tr>
<tr>
<td>• Entry restrictions: In the Northern Territory, the number of taxi licences is no longer restricted. Restrictions apply in other jurisdictions.</td>
</tr>
<tr>
<td>• Number of taxis relative to population: Taxi ‘densities’ are reflected in licence values which range from around $100,000 in Tasmania (about 13 taxis per 10,000 people) to $270,000 in Queensland (about 8 taxis per 10,000 people). In parts of the New South Wales north coast, licences are valued at around $350,000.</td>
</tr>
<tr>
<td>• Licence allocation: Licences traditionally have been freely allocated (often based on seniority). However, more recently, some jurisdictions such as New South Wales and the ACT have, on occasions, auctioned new licences. Trading in licences is common throughout Australia.</td>
</tr>
<tr>
<td>• Fares: Victoria has a fixed single tariff fare structure. Other jurisdictions have regulated maxima and multiple rates. Average fares vary among jurisdictions (between $6.25 in Darwin and $7.85 in New South Wales for a 5 kilometre journey).</td>
</tr>
<tr>
<td>• Taxi dispatch services: In most jurisdictions, taxis must belong to a dispatch service, but this is not the case in Western Australia.</td>
</tr>
<tr>
<td>• Drivers/vehicles: In the ACT, the type of vehicle is not specified, whereas minimum vehicle size dimensions apply elsewhere.</td>
</tr>
<tr>
<td>• Hire-cars: In South Australia, the number of hire-cars is unrestricted (licence value of $1000) and, hence, direct competition with taxis is strong. In most other jurisdictions, entry restrictions apply. In Victoria, the entry restrictions give rise to licence values in the order of $80,000.</td>
</tr>
</tbody>
</table>
Regulation restricting entry

The grounds for restricting entry are generally not well articulated. The restriction is usually justified on the grounds that it is needed to enhance safety (by increasing returns and, hence, taxi operators’ financial capacity to comply with safety requirements) and to constrain fare increases.

The Commission does not consider that there is a compelling case for entry restrictions on either of these grounds.

- Where the restrictions lead to higher returns, the beneficiaries will be taxi licence plate holders. However, many licence holders lease their plates to others and, therefore, are not directly responsible for vehicle safety. Even where plate holders operate taxis themselves, there is no guarantee that higher returns would improve safety. Safety concerns are best addressed directly — by regulations, supported by appropriate enforcement and sanctions.

- In the absence of entry restrictions, there would be a larger number of taxis. In this more competitive environment, fares are more likely to fall than to rise.

Indeed, a major disadvantage of entry restrictions is the effect they have on increasing fares and/or extending waiting times for taxis. These costs, which are ultimately borne by consumers, can be significant. For example, based on the current annual cost to lease a taxi licence in Sydney (about $18 700), the cost to users of Sydney taxis resulting from entry restrictions is estimated to be in the order of $75 million per year. Studies show that this cost is borne most heavily by low-income households.

The regulatory restrictions on competition also reduce the incentive for taxi operators to be innovative and explore new ways of cutting costs and providing services to better meet users’ needs. For example, in some countries, part-time operators help overcome peak demand problems, and in some areas mini-cabs are used to provide a lower cost service.

The Commission has been unable to identify benefits to the community that justify restrictions on taxi numbers. Accordingly, it considers that there is a strong case for the removal of such restrictions. However, as entry restrictions underpin the value of taxi licences, a concomitant assessment of the implications for compensation and adjustment assistance is warranted (see below).

Fare regulation

In most of Australia, fare regulation takes the form of a prescribed maximum fare. The regulation is intended to prevent undue fare increases that could otherwise arise.
in an environment where competition is constrained by entry restrictions. In practice, the maximum prescribed fare usually becomes the norm for all taxis.

Two alternative pricing options that have been commonly considered in reviews of taxi regulation are complete fare deregulation (which was adopted by some US cities in the 1970s and, more recently, in Sweden) and posted prices (which apply in New Zealand).

- Complete deregulation would permit individual taxi operators to determine fares. It would allow, for example, drivers to negotiate fares directly with individual passengers or to determine the distance-related rate to apply where fares are based on meter readings.

- A posted fare arrangement would require taxis to display publicly the fares they elect to charge. When they wished to change fares, they would first have to notify the administering authority before the new fares could come into effect.

A weakness of fare deregulation is the capacity it would provide drivers to exploit users by making on-the-spot decisions to charge excessive fares at times when taxis are in short supply — such as when it is raining during peak periods. Uncertainty about fares and a reluctance to 'haggle' with drivers could also make this approach unpopular with some users. A posted fare regime would overcome these shortcomings, but would still provide the flexibility for taxis to compete against each other by offering different combinations of price and quality of service.

Both options could prove unsatisfactory at major airports, however, where passenger numbers are high and large volumes of baggage have to be loaded. At these ranks, the objective of loading and dispatching vehicles expeditiously could be frustrated if, rather than taking the taxi at the head of the queue, passengers 'shop' up and down the rank to find the taxi which offers the cheapest fare. For these reasons, a fixed regulated fare could be warranted at the main airport rank. However, to give airport users the opportunity to take advantage of lower fares, it would be desirable (where feasible) to provide a separate area to be used by taxis that offer discount fares. Such an arrangement already exists in a number of countries.

The need for a regulated fare at some airports raises the issue of whether, for the sake of simplicity, another option should be considered for some cities — retaining the industry-wide prescribed maximum fare. In the absence of entry restrictions, a regulated maximum fare would be likely to produce a variety of outcomes rather than the uniform fare presently observed. And, with hire-cars available to service the premium end of the market, the usual concern that fare regulation would discourage the provision of higher quality services would not arise.
The best approach will depend on the characteristics of the particular taxi market. For example, in large cities where a significant proportion of business derives from ranks, a posted fare system may be best. In some small centres where phone bookings dominate, full deregulation could be appropriate.

However, as a transitional measure, there is a strong case to retain maximum fare regulation if entry restrictions are progressively removed. This would guard against unwarranted price increases during the period when licences are still relatively scarce. It may mean that, initially, most taxis would charge the regulated fare. However, as the number of licences increased, the likelihood of discounts from the regulated fare would also increase.

**Compensation and adjustment assistance**

The removal of entry restrictions would result in holders of taxi licences — many of whom are owner-drivers with no other source of income — incurring substantial losses (up to $250,000 or so). This change, coupled with a move away from regulated fares, would also represent a significant departure from the arrangements to which the industry and its customers have become accustomed over many decades. For these reasons, there is a need to consider adjustment assistance and compensation.

Adjustment assistance — that is, measures to help individuals and, in some instances, organisations, adjust to change — has accompanied some past reforms. One way of facilitating adjustment — phasing of reforms — is particularly relevant to the taxi industry. The progressive relaxation of entry restrictions could facilitate an orderly transition to a less regulated environment. As noted below, it could also reduce the need for compensation. However, in assessing the scope for phasing, it is important to recognise that it is not a costless option — by definition, it defers the delivery of consumer benefits arising from deregulation.

Compensation is an even more complex issue. The main rationales for its provision centre around: property rights; overcoming resistance to reform; and ‘fairness’.

Some would argue that taxi licenses are akin to a property right, the value of which has been underpinned by regulation. License conditions do not specify that governments are obligated to protect license values. However, it is relevant to consider whether past government actions could have signalled such an intention. The long-standing nature of restrictive licensing, the agreement of governments to the sale and lease of licenses, and the action of some governments in selling licenses at market value, could have led license holders to believe that they hold an asset, the value of which would continue to be underpinned by government. By the same
token, such claims would be weakened if, in the past, a government had announced an intention to significantly increase the number of taxi licenses in the future or, alternatively, had made ad hoc increases in license numbers (and, hence, decreased license values). Past statements by governments on their general approach to legislation that restricts competition could also be relevant.

Claims for compensation on the grounds of ‘fairness’ are also difficult to assess.

The size of the losses is clearly one factor. Few would dispute that losses to individuals in the order of $250 000 would be substantial.

It is also relevant to consider how governments have responded in other situations where a policy change has seriously disadvantaged individuals. However, in practice, it is difficult to distinguish the circumstances that have led governments to choose between different approaches. The decision to provide financial assistance in exchange for dairy industry deregulation is a recent example of compensation. But, often, significant losers from government policy changes are not compensated — for example, decisions that adversely affect local businesses (eg to construct a highway bypass) and the removal of import quotas on some manufactured goods have typically not been accompanied by compensation.

Governments will also face more pragmatic issues when considering whether compensation should be provided. For example, it may be relevant to consider whether compensation would avert the possibility of reforms being stalled, or perhaps even overturned, as a result of lobbying by potential losers. A contrary consideration is the effect that a decision to provide compensation could have on the incentives for those disadvantaged by other government reforms to mount more intensive lobbying campaigns.

Overall, there is no hard and fast rule for determining whether, and to what extent, compensation should be provided. Instead, a range of factors will need to be considered in the context of the particular circumstances of each jurisdiction (see box 4.3). In considering these factors, governments will have to make some difficult judgements.

If governments opted to provide compensation, the level and distribution of payments would require close attention. Some key factors that should be recognised in addressing these issues include:

- there is generally an inverse relationship between the length of phasing and the amount of compensation. Indeed, lengthy phasing could obviate the need for compensation;
- as compensation should be limited to the losses incurred by licence holders, any value associated with goodwill or acquiring a job embedded in the current value value
of taxi licences should be disregarded for compensation purposes — these values would not be significantly affected by the removal of entry restrictions;

- funding compensation by increasing existing state or territory taxes would result in significant costs (the so-called ‘deadweight cost’ of taxation); and

- compensation payments could be allocated equally between licence holders but, if payments are limited, there could be merit in considering whether they should be skewed in favour of more recent purchasers of taxi licences or, alternatively, licence holders that would be most disadvantaged by the removal of entry restrictions.
1 Introduction

Taxi and other hire-car services are a vital component of the urban transport system in Australia’s major cities. Their flexibility — in terms of their operating hours and, more particularly, their pick-up points and destinations — complements regular scheduled services provided by other forms of public transport (i.e., urban rail, bus, tram, and ferry services). Taxi services are particularly important for some groups for whom alternative public transport is not suitable — such as some elderly and disabled people, and unescorted young children.

It is clearly important that taxi services operate efficiently and that the services provided closely mirror users’ needs. To this end, governments throughout Australia have sought to develop taxi services that are characterised by ‘acceptable’ waiting times, high levels of safety and quality (including reliability of service), and affordable prices. However, to achieve these objectives, governments have introduced regulatory regimes that tightly constrain the way in which services are provided. In most jurisdictions, this encompasses a web of regulations governing the quantity, quality and price of taxi services.

Under the Competition Principles Agreement (CPA) agreed to in April 1995 by the Commonwealth and all State and Territory governments, all jurisdictions are required to review legislation which restricts competition by the year 2000. The underlying principle accepted by all governments 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.

There have been longstanding concerns about the anti-competitive effects of taxi (and to a lesser extent hire-car) regulation, particularly restrictions on entry to the industry. Thus, to meet their commitments under the CPA, governments throughout Australia are required to review their taxi and hire-car regulatory regimes.

This paper has been prepared as an aid to state and territory review bodies. It draws on previous experience and analysis by the Commission and its predecessor, the Industry Commission, which, in reports released during the 1990s, have examined most elements of Australia’s public transport system and associated infrastructure,
the most recent being the 1999 report into Progress in Rail Reform (PC 1999). The broad regulatory framework that applies to taxis and hire-cars in most Australian jurisdictions was examined in the 1994 report into Urban Transport (IC 1994).

This paper comments on only some of the components of taxi and hire-car regulation that apply in various jurisdictions in Australia. In doing so, it focuses on those areas in which reform has the potential to yield the greatest benefits. To this end, the major focus of the paper is on taxis rather than hire-cars.

The next chapter briefly outlines some of the main characteristics of the various sub-markets for taxi and hire-car services. Chapter 3 discusses the need for government regulation in these markets and the effects of existing regulation. The final chapter discusses implementation issues, in particular compensation and adjustment assistance.
2 The nature of taxi markets

Taxi services are one of the few industries in Australia where the price, the quantity and the quality of the service are all regulated. This level of regulation of a service which is characterised by many small suppliers — for example, there are over four thousand taxis in Sydney — implies that there are factors at play which, in the absence of regulation, would result in ‘poor’ outcomes for the community at large. The form of the regulation suggests that these shortcomings could involve factors that:

- prevent consumers making effective choices;
- hinder the efficient operation of service suppliers; or
- otherwise lead to adverse social impacts on the community.

To understand the rationale for regulation, it is necessary to consider the nature of the transactions in the industry and the problems that could arise if it was not regulated. These matters are discussed below.

2.1 Market segments

There are a number of players in the taxi industry, each with different interests. As background to the discussion of taxi markets, box 2.1 provides a snapshot of the structure of the industry in Sydney and Canberra.

Although all taxis offer broadly similar services — providing door-to-door passenger services on demand — their activities can be segmented into a number of sub-markets:

- taxis that are hired from a rank;
- taxis that are hailed from the street; and
- taxis that are booked by phone.

Hire-cars compete with taxis for phone bookings. However, mainly because of regulatory constraints, they do not compete closely with taxis in other market segments (although some hire-car operators seek to attract passengers at airports, major hotels and the like).
Box 2.1 Structure of the taxi industry

The structure of the taxi industry varies across jurisdictions. This is illustrated by a comparison of the situation in a very large market, such as Sydney, with other markets. The Sydney taxi industry has five main (although often overlapping) participants:

- License owners: Owner-drivers and those who lease their plates to taxi companies or individual operators. In total, there are 4395 taxi licences.

- 12 taxi companies (and co-operatives): Companies or cooperatives who sell bundled services (e.g., insurance and repairs) to operators, but who may also manage licence plates and operate taxi businesses.

- 3 taxi networks: Taxi companies that also provide phone booking, dispatch and safety services (e.g., silent alarms) to their own members and other taxi companies.

- Operators of taxis: Operators can be owner-drivers, someone leasing a plate and operating a vehicle, or companies (or individuals) that manage multiple licences, vehicles and drivers.

- 20,097 (including non-active) drivers: Drive their own vehicles (as operators) or contract their services to operators.

In contrast, in the ACT, one taxi company effectively has an operating monopoly for taxi booking services (apart from some competition from users that book directly with drivers equipped with mobile phones). While a person in the ACT may only hold two licences, there are fleet operators—the largest operator leases 22 licences. Similarly, the Northern Territory had, prior to deregulation, one taxi network. Since deregulation, this has grown to three networks.

In smaller regional markets, the industry might comprise a couple of taxis and a small dispatch service.


The rank and hail markets are often called the ‘cruising market’, and are similar in some aspects (e.g., neither involve taxis travelling to a specified pick-up point or passengers organising services through a base). In contrast, there are marked differences between the cruising and phone markets that have implications for the regulation of each.

The proportion of taxi revenue generated from each market varies significantly between cities, in part depending on population size and density of the area served, as well as the availability of alternative transport options. For instance, in Sydney, rank fares comprise about 35 per cent of the market, hail fares 25 per cent and
phone bookings 40 per cent.¹ In contrast, in the smaller and more dispersed
Canberra market, hail business is insignificant and phone bookings substantially
outweigh business from ranks.

In each market segment, demand for taxis is highly variable depending on the time
of day, the day of the week and the time of the year (eg the volume of work tends to
increase over holiday periods). Climatic factors, particularly rain, also affect
demand.

Taxi (and hire-car) services need to be flexible to meet this variability. Like many
industries, the level of capital required (mainly vehicles) to meet peak period
demand is substantially greater than that required at other periods. In its Interim
Report on taxi and hire-car regulation, IPART (1999) presents data showing that,
under current arrangements, the supply of Sydney taxis (the proportion of taxis
working at one time) adjusts to give a relatively constant level of occupancy (that is,
the number of taxis occupied as a percentage of the number working is similar at
any point in time). This implies that taxis will be available only if they can earn
sufficient revenue to make it worthwhile. Hence, in off-peak periods, a significant
proportion of the taxi fleet is off the road.

There is a high degree of substitutability between each market segment. For
instance, in many situations, consumers will have a choice of options: walking to
the nearest rank if they cannot hail a taxi, or phoning for a taxi. However, as
indicated below, there are also clear differences between markets.

2.2 The rank and hail taxi markets

Throughout Australia, specific kerb-side areas are designated as taxi ranks. They
are generally located in areas of relatively high demand for taxis (eg adjacent to
shopping and entertainment centres and large office complexes). Ranks are also a
convenient holding bay in off-peak periods. Under the current arrangements of
largely undifferentiated supply, consumers select the first taxi from a queue or wait
in line at the rank until a taxi arrives.

The airport is the most significant taxi rank in most major Australian cities. In
Sydney, taxi travel to and from the airport accounts for 25 per cent of total taxi trips
(and possibly a greater proportion of total distance travelled by taxis) (IPART
1999).

¹ The proportion in each market is also influenced by the regulatory regime (for instance, with no
entry restrictions and more taxis, the hail and rank markets could be relatively bigger).
It is often argued that the nature of the transaction required to engage a taxi at a rank or to hail a taxi in the street makes it difficult for consumers to make informed choices. For instance, in terms of quality, it is virtually impossible for consumers arriving at a rank or hailing a taxi to quickly and fully assess the quality of the service they are buying. It is not possible for consumers to know the geographical knowledge or the driver's ability to communicate effectively. Nor — given that taxis are often engaged when time is an important consideration — is it realistic to presume that consumers have the time (or the technical know-how) to inspect and make judgements about the cleanliness or roadworthiness of a cab before engaging it.

In terms of fares, it is often argued that, in the absence of regulation, undesirable outcomes could result. During off-peak periods, this could involve overly aggressive price competition with drivers arguing over fares amongst themselves, and with passengers. There is some evidence that this occurred in the United States when fares were fully deregulated, and it is a feature of some other overseas taxi markets. In contrast, in periods of high demand when taxis are scarce (for instance, when it is raining during peak periods), consumers are in a weak bargaining position and could be subject to excessive pricing — often termed ‘price gouging’. The ability to price gouge arises from a taxi having temporary market power because potentially high search costs in locating another taxi substantially reduce consumers’ capacity to negotiate.²

At some ranks where demand is very high — primarily at airports — it is important to the efficient movement of large numbers of people that the time taken for each consumer to engage a taxi is minimised. A situation where consumers are negotiating with a range of cabs — and delaying pick-up times — could be considerably less efficient than the present convention of passengers taking the first cab off the rank.

### 2.3 Phone bookings

With phone bookings, a consumer pre-selects a taxi (or hire-car) company from those that operate in a given area. (However, in smaller cities the choice is often limited — for example, there is only a single taxi cooperative in Canberra.) To supply services in the phone market, a taxi generally needs to be part of a network.

² Price gouging should be distinguished from higher prices that serve in some industries (eg electricity supply) to ration available supply during peak times. Price gouging implies a level of prices that exploit consumers’ weak bargaining position.
since, owing to unevenness in the flow of work, a single operator could not respond to all booking requests within acceptable times.

In contrast to the rank and hail market, the phone booking market does not suffer from the same constraints to effective competition. Consumers — or at least more frequent users — do not face the same search costs: they can negotiate prices beforehand in an unpressured environment, seek price information from a range of companies or use a company which from experience they know offers a price and quality combination which meets their requirements. In this regard, hiring a taxi or hire-car by phone is not dissimilar to purchasing a range of other services commonly organised by phone, such as ordering home delivered pizza or engaging home handypersons.

In Australia, owing to entry restrictions, hire-cars tend to operate predominantly in the premium end of the phone market, but conceptually they are no different from taxis in responding to phone bookings. As the development of the United Kingdom mini cab industry demonstrates, without entry controls there would most likely be a wider range of hire-car operators offering both higher and lower quality levels than taxis presently offer.

Unlike the rank and hail market, there is not the same need for signage to identify a vehicle as a taxi or hire-car in the phone market since consumers do not generally need to distinguish the vehicle from other traffic.
3 Assessing the need for existing regulations

The Competition Principles Agreement requires that the need for, and alternatives to, current regulation be considered in legislation reviews. Based on the characteristics identified in taxi and hire-car markets, this chapter discusses: the need for government involvement; whether existing regulatory regimes are the most efficient means to overcome perceived problems in taxi markets; certain key elements that underpin their impact; and regulatory options that could be considered as part of the legislation reviews.

3.1 Safety and quality regulation

As noted above, in all three market segments — rank, hail and phone — users have difficulty in assessing the safety and quality of service associated with a particular taxi. This may be less of a problem for frequent users who, over time, become familiar with (say) the calibre of the drivers and the cleanliness of vehicles attached to a particular taxi company. Nonetheless, with large numbers of individual taxi owners, significant variations in quality standards can exist, even between taxis in the same fleet. And even frequent users have limited capacity to assess some elements of safety and quality (eg the roadworthiness of the vehicle).

Mainly because of the limited information available to users (so-called ‘asymmetric information’), it is widely accepted that governments have a legitimate role to play in prescribing minimum safety and quality standards. The more contentious issue concerns, first, how these objectives are most efficiently pursued and, second, exactly what matters should be subject to government control.

To date, governments in Australia have sought to achieve desired safety and quality levels by regulatory means. In a number of other service industries, these objectives are pursued by industry codes or certification schemes, generally of a voluntary nature. In terms of the taxi industry, this could imply that, rather than promulgating compulsory standards through regulation, governments (or possibly private organisations) could offer voluntary certification to taxi operators. The level of
certification achieved by each operator — which would presumably be publicly displayed by those achieving the highest levels — would help users to associate at least some aspects of safety and quality with individual vehicles. In some senses, this concept would be an extension of the present brand naming used by the larger taxi organisations in major cities to help establish a reputation for quality.

In principle, a ‘market-based’ scheme like this, or a variant of it, could overcome some of the disadvantages typically associated with regulation (eg the limited flexibility and incentives it provides to improvise and provide non-standard services). However, in practice, even if there was a high take-up, it is likely that significant information problems would remain for at least some users. For instance, some passengers that use taxis infrequently would be unlikely (or unable) to invest the time needed to understand the meaning of certification. Tourists, in particular, (both international and domestic) would not have the requisite local knowledge to determine quality on the basis of a certification scheme.

In this situation, some minimum level of regulation appears warranted.

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 (eg roadworthiness tests, maximum vehicle ages and driver training requirements);
- driver safety (eg the provision of protective screens and in-cab cameras); and
- improving service quality (eg 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. However, in its view, the justification for some existing regulation is weak:

- it is not necessary to subject taxis to more stringent roadworthiness checks than other passenger motor vehicles. All vehicles — irrespective of whether they carry paying or non-paying passengers — should be subject to regulations designed to meet some government-specified minimum safety level. However, the large distances covered by taxis imply a need for more frequent inspections than would be the case for most other passenger motor vehicles;
- provided an adequate inspection process is in place, there is little need to prescribe a maximum age for taxis. Subject to them meeting safety and presentational standards, there seems to be no reason why vehicles older than current maximums could not continue to be used as taxis;
the grounds for currently prescribing minimum sizes for taxis are weak. In the absence of entry restrictions, it is highly unlikely that such regulation could be justified;

- similarly, the case for requiring taxi drivers to undergo driver training additional to that required to obtain a conventional drivers licence is not strong; and

- it is possible that driver dress rules and vehicle presentation standards could be justified on the grounds that individual drivers and vehicles that rate poorly in these areas generate spin-off effects that impact adversely on the industry as a whole (eg a tourist who engages a dirty cab may decide that taxis in general are not an appropriate means of transport in that particular city). However, the benefits from mandating uniform dress standards and vehicle liveries are problematic. For instance, some residents may perceive a common colour scheme within a city as an improvement. On the other hand, without adequate signage, a uniform colour could hinder the identification in the hail market of the company to which a taxi is attached and, thus, reduce competition.

### 3.2 Regulating entry

Arguments for restricting entry to the taxi (and hire-car) industry are often not well articulated but, in the main, have been based on enhancing safety and constraining fare increases.

#### Objectives of restricting entry

**Taxi safety**

Taxi organisations and some governments argue that restricting the number of taxis on the road enables taxi owners to achieve a level of income sufficient to ensure that vehicles meet the prescribed safety standards. Increasing taxi numbers, it is argued, would result in falling incomes and a decline in maintenance and safety levels. (In the past, similar arguments were cited as requiring the maintenance of entry restrictions on intrastate aviation routes.)

The Commission does not find these arguments compelling.

The Commission acknowledges that there is a role for regulation in specifying minimum safety standards for taxis. This reflects the very limited ability of passengers to determine the mechanical condition of the taxis they use, as well as concerns about the safety of third parties. But the most efficient way to pursue
safety objectives is by targeting them directly — not indirectly through income support measures. These latter measures provide no guarantee that safety will be improved. This is most evident in the case of leased plates where the higher income is appropriated by the owner of the plate, not the taxi operator — the person responsible for vehicle safety.

With well-targeted safety regulations — supported by an appropriate system of enforcement and sanctions — it is difficult to justify restrictions on entry in order to address safety concerns. This arrangement is similar to the existing requirements applying to private car owners — there is no requirement on individuals to demonstrate they have the financial wherewithal to maintain a car. Rather, they are subject to regulations that require cars to be roadworthy, including (in most jurisdictions) either periodic and/or 'on the spot' inspections.

**Constraining fare increases**

Some economists (eg Schreiber 1975 and Teal and Berglund 1987) have argued that entry restrictions are necessary to guarantee the efficient functioning of the market. More specifically, they argue that price competition is unlikely among taxis because the nature of taxi markets means that an individual taxi decreasing its price may not lead to extra demand for its services. It is contended that, if taxis had no incentive to reduce prices, deregulating entry could lead to more cabs entering the market and, as a result, prices rising rather than falling as each cab attempts to cover its costs from the same pool of customers. Some critics use this form of reasoning to explain why prices rose in some United States taxi markets when they were deregulated (see box 3.1).

An argument along these lines *could* be plausible if taxi services were predominantly provided through the hail market. The claim would depend upon the notion that, largely because of the needs of those hailing a cab in the street, competition is limited in this section of the market. However, the rank and phone markets collectively represent by far the majority of business in most major Australian cities. In these markets there are few constraints to competition:

- there is the potential for some competition at ranks, especially when demand is relatively low. In a deregulated environment, consumers could compare prices (and possibly quality) and make choices accordingly. For instance, in New Zealand, entry is unrestricted and taxis offer different prices. As the New Zealand Transport Minister has stated:
Box 3.1 Taxi deregulation in the United States

A number of cities in the US deregulated their taxi industry in the 1970s. Although the reforms varied, in many cases entry, price and most quality controls were removed simultaneously. No special provisions were made for airports.

Following the changes, taxis numbers increased by between a quarter and a third. Most new entrants were single operators working mainly from airports and other ranks.

While there is little information about changes to response times of taxis or queuing times, there is considerable debate about what happened to fares. Frankena and Pautler (1986) and Doxsey (1986) claimed that, overall, fares decreased or remained constant — the exceptions being in areas where there was little or no competition and airports or hotels where single operators charged excessive fares. On the other hand, Teal and Berglund’s (1987) much cited study suggested that average fares rose considerably.

Teal (1989) argued that, to solve the problems, all taxi operators should have to belong to an organisation which provides 24-hour radio dispatch services (rather than allow single operators). Another option suggested by Teal and Berglund was to eliminate all entry controls (except for quality controls such as safety regulations), but retain maximum fares. This would allow new entry, but protect consumers from excessive prices at airport ranks and the like.

The response of most US cities went well beyond that suggested by Teal — most re-regulated the taxi industry to overcome quality and, in some cases, pricing problems — particularly at airports. Often this involved re-imposing entry and/or price controls.

The US experience has been cited as a reason for not deregulating Australian taxi markets. However, Australian taxi markets differ significantly from the US markets in the 1970s:

- Teal and Berglund (1987) suggested that plate values were relatively low in the US and did not increase taxi costs significantly; hence, deregulating entry did not lead to large cost reductions and create much scope for price reductions. However, in Australia, licence values increase taxi operating costs by up to 30 per cent, indicating that there are significant benefits available to Australian consumers from deregulation. Even now a taxi licence in New York costs around US$60,000, compared with values of well over $250,000 in major Australian cities (Staley 1998).

- Teal and Berglund suggested that a major impediment to competition was entry costs to the telephone order market. However, profound changes in telecommunications technology since the 1970s, and the evidence of new telephone dispatch services developing in the deregulated Northern Territory market, mean this is less likely to be a significant impediment today.

I often hear people talking about taxi rides they have taken. Customers do remember which company has given good service. Not only will they ring a particular taxi company they will also pick a particular taxi from the rank. Long gone are the days when you had to take the first taxi in the queue. (Williamson, M. 1998, Speech to the Taxi Federation Annual Conference, September)

- as noted in chapter 2, there is considerable scope for competition in the phone market. Consumers are more likely to have the time to establish relative prices and quality levels. And businesses and frequent users will often seek to identify the taxi company which best satisfies their needs.

These considerations suggest that, if given the opportunity, users will discriminate between taxis on the basis of price. In response, in the more competitive environment that would result from the lifting of entry restrictions, there would be pressure on taxi operators to reduce, rather than increase fares, to gain market share. The Commission does not consider that entry restrictions are necessary to constrain fare increases. Instead, removing entry restrictions is likely to provide greater pressure for fare reductions than exists at present.

The argument that entry restrictions are necessary to constrain fares is also at odds with the experience of deregulation in New Zealand and the UK mini-cab industry. In New Zealand, brand naming has become increasingly important since deregulation in 1989, and has been accompanied by reductions in fares. Similarly, there is price competition in the mini-cab sector of the UK market where entry is not restricted. Thus, while the United States experience may caution against complete deregulation of the industry, it does not provide evidence to support the view that, in Australia, taxi markets could not function effectively without entry restrictions.

The costs of restricting entry

While entry restrictions seem to provide few benefits to the community, they have the potential to impose costs on users.

The limited available information suggests that the restrictions have artificially suppressed the number of taxis. For instance, whereas there are between 0.77 and 1.14 taxis per thousand people in Australia’s state capital cities, in the deregulated Auckland and Wellington markets there are over double that number (2.93 and 3.66 taxis per thousand people, respectively) (IPART 1999, p. 75). Other factors (e.g. the availability of other forms of public transport and fare relativities) associated with the New Zealand markets may impede the comparison. Nonetheless, the magnitude of the differences in taxi numbers suggests that the removal of entry restrictions in
Australian markets would be accompanied by an appreciable increase in the number of taxis.

Restricting the number of taxis on the road allows each taxi to earn higher profits that it otherwise would. These profits, which correspond to a direct cost to consumers, can arise in two ways. The first, and most obvious, is in higher fares (which, under the present arrangements, are possibly most evident in the very limited extent of discounting). But entry restrictions also allow taxis to earn higher revenue by being engaged for a greater proportion of time than they otherwise would. That is, there is a faster turnaround time between jobs. However, this represents a cost to consumers in the form of longer queues for taxis and a slower response to phone bookings. At peak times and at some high demand ranks, like at major airports, these costs can be high.

The capacity of taxis to earn higher than normal profits under the existing arrangements is reflected in the high sale value of taxi plates — currently between $260 000 and $280 000 in Sydney (see table 3.1 for values in other capital cites). This value reflects a combination of:

- the excess profits a taxi can earn,
- a related factor, the expected appreciation over time in plate values (which is a reflection of expected increases in lease values); and
- possibly goodwill and a value that some owner-drivers place on having ‘secure’ employment (see box 4.1 in section 4 for a discussion of plate values).

### Table 3.1  Real cost of taxi licences in each jurisdiction

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*a Licence values have been adjusted for inflation to 1998 dollars.
* A more recent study (IPART 1999) cites a value of $280 000.

Source: Soon 1999a.

Rather than own a licence, many operators lease plates, typically for a period of two years. The lease cost provides the most accurate estimate of the additional cost to consumers from entry restrictions. Lease values are determined by the market and,
hence, reflect the return a plate owner can expect purely from owning the plate. According to the IPART interim report, lease values are around $18,700 a year in Sydney. Given that there are around 4500 licences in Sydney, this is equivalent to an annual cost to Sydney taxi users of over $75 million.1

Taxi plate costs comprise a significant proportion of total taxi costs — approximately 25 per cent according to IPART’s calculations. Thus, assuming no other change in the industry, eliminating the licence value could result in fares falling by up to 25 per cent, an increase in the number of taxis on the road (and, thus, shorter waiting times), or a combination of both. As IPART said:

If this value could be eliminated, the same level of taxi availability could be achieved at a lower fare level. Alternatively, at the same fare level, taxis could tolerate more vacant time and hence taxi availability could be improved. In a fully deregulated industry, the market would set the balance between taxi fares and availability. (IPART 1999, p. 77)

Whichever way the benefit from liberalisation is delivered, it can be thought of as a transfer of approximately $75 million a year from plate owners back to existing consumers. Additional benefits would accrue from an expansion in the demand for taxi services. At present, high prices deter some people from using taxis or using them as often as they otherwise might. Excessive queuing or slow response times during peak periods are also likely to deter some people from using taxis (eg because of the difficulty of securing a taxi on a Friday night, some people may take their own car or switch to public transport). While these benefits are hard to measure (see box 3.2), they represent a direct efficiency gain that is lost under the current arrangements.

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1 According to IPART (1999, p. 75) there are 3933 standard taxi licences, that would have a lease value of $18,700 a year. The remainder comprise wheelchair accessible taxis and peak availability licences which would have a lower lease value.
Box 3.2 Measuring the benefits of taxi deregulation

Estimates of the loss of consumer surplus and the deadweight losses of taxi regulation are sensitive to the extent to which the regulated fare exceeds the competitive fare. An Australian study by Gaunt and Black (1996) attempted to measure the transfers and costs associated with regulation of the Brisbane taxi industry. The authors concluded that, in 1993, taxi regulation had resulted in a Brisbane taxi plate having a value of $190,000, reflecting 228 fewer cabs than would arise under a competitive regime and an increase in fares of $1.47 for a standard 8km trip. Gaunt and Black (p. 57) concluded: 'The public or consumer interest has suffered an estimated $20.67 million annual loss of wealth in 1993, while between $11 million and $19.1 million of this loss has been picked up by the politically powerful licence holder lobby and between $1.48 million and $9.55 million has been lost to society with no group directly benefiting [the deadweight loss].'

Source: Gaunt and Black (1994).

Finally there could be further benefits from deregulating entry associated with efficiency improvements over time (often termed 'dynamic efficiency'):

- Firstly, a wider range of vehicles could supply taxi services, including smaller vehicles in niche markets or mini-buses that carry a greater number of people. Smaller vehicles have lower operating and capital costs, while mini-buses allow the capital to be used more intensively. Both outcomes could lead to lower fares.

- Secondly, innovative ways of overcoming peak demand problems are more likely to emerge. One possibility is that part-time taxis would enter the market. These cars would operate as private vehicles at off-peak times, but could be used as taxis or hire-cars at peak times. Again, this could reduce costs and result in lower prices. Current entry restrictions deter such behaviour because the high cost of plates tends to force operators to run vehicles for most, if not all, of the day in order to cover costs. (In some cities (such as Sydney) this problem is addressed to some degree through the availability of some licences for use only during peaks.)

In summary, deregulating entry is likely to lead to significant benefits being transferred from licence holders to consumers, and significant efficiency gains for both the industry and consumers.

Studies of the use of taxis show that, while use increases with income, low income earners who are unable to afford a car spend the greatest proportion of their incomes on taxis (IC 1994). For instance, Soon (1999b) found people in the lowest 20 per cent of household incomes spend 0.68 per cent of their income on taxis, while those
in the highest 20 per cent spend 0.17 per cent. Thus, the costs of entry restrictions are borne most heavily by those who are less well off. The removal of entry restrictions would, therefore, overcome the regressive impact of the current arrangements and could be seen as desirable on equity grounds.

The Commission does not consider entry restrictions are needed to constrain fare increases, to underwrite the safety of taxi users or to promote other aspects associated with the efficient provision of taxi services. In the Commission’s view, the removal of entry regulations would offer large benefits to the community.

In all states and territories except South Australia, entry to the hire-car market is also restricted. A factor motivating governments in regulating hire-cars appears to be the recognition that policies of restricting entry to the taxi industry would be undermined if there were free entry to the hire-car industry. If entry restrictions for taxis were removed, this rationale for maintaining entry restrictions on hire-cars would obviously disappear. That said, if the taxi industry were to be deregulated, the inter-relationship between the taxi and hire-car industries would need to be taken into account in order to allow a smooth transition.

### 3.3 Fare regulation

Except in Victoria, taxis operate under a maximum fare regime rather than a prescribed rate. However, in effect, there is no price competition as all cabs tend to charge the maximum allowable fare.

There are two commonly espoused alternatives to maximum fare regulation in a deregulated environment: full deregulation, whereby passengers negotiate fares for each journey; and posted prices, whereby taxi companies set their own prices in advance and are required to ‘post’ them both outside and inside their vehicles. Posted prices could vary according to the time of day and/or the location of pickup or drop-off.

Debate about the appropriate level and form of price regulation for the taxi industry raises a number of complex issues. And, as illustrated in the following discussion, the rationales for regulating fares are different in the rank and hail (or cruising) market and the phone market. The discussion presumes that entry restrictions would be removed.
The rank and hail markets

In the hail market, the relatively weak bargaining position of users tends to suggest that, at least in periods of peak demand when choice is limited, fully deregulated fares may not lead to good outcomes for the community. For example, prices could be inflated to exorbitant levels when it rains and there are few available taxis. This problem could be magnified in situations where users are unfamiliar with usual fare structures — for instance, in tourist areas.

One alternative to full deregulation is the approach adopted in New Zealand. In that country, taxis are required to post their prices inside and outside their vehicles. They are also required to notify the Government in advance of changes to posted prices.

There are a number of attractions of such a system. For example, posted prices:

- allow companies to compete by offering different combinations of price and quality of service;
- would eliminate the ability of taxi drivers to make ‘on the spot’ decisions to charge excessively high prices in situations when demand is especially high. However, it would not preclude time-of-day charging whereby prices would be routinely lower in off-peak times and higher when demand was greatest; and
- would eliminate the need to ‘haggle’ over prices at taxi ranks — which may not suit consumers and could lead to overly aggressive solicitations for fares by drivers.

However, posted prices may not be appropriate for all situations. At major airports — where passenger volumes are high, luggage has to be loaded and some passengers are fatigued and not familiar with usual fare structures — it is a practical necessity to conduct transactions quickly so as to minimise queuing times. For instance, IPART notes that Sydney Airport aims for taxis to load and dispatch passengers in one minute. In these situations, the ‘first cab off the rank’ system may not just be a cultural convention — it may also be the most efficient option from a logistics point of view. However, enforcing a ‘first cab off the rank’ regime precludes consumers from choosing among cabs at the rank. Consequently, taxis with higher than average posted prices would still be assured of gaining airport trade. Over time, this could encourage a range of ‘rogue’ cabs to post high prices and concentrate predominantly on the airport rank. This would be unreasonable for those passengers forced to use these higher charging cabs.

Faced with these types of problems (and conflict between drivers), the New Zealand Government has re-regulated the Wellington airport rank via entry restrictions to allow only ‘reputable’ companies to pick up at the airport. However, limiting the
number of cabs that can service the airport represents a partial restriction on entry and could perpetuate, to some extent, airport queuing problems.

In these circumstances, for the foreseeable future at least, there appears to be grounds for some form of price regulation of taxis that results in a uniform fare structure applying to serving the main rank at major airports.

It is possible to envisage solutions to the airport problem that allow both price competition and quick turnarounds. One alternative that has been adopted in a number of countries is to physically separate vehicles offering different qualities of service. Thus, while the main airport rank could comprise taxis that operate under a uniform fare structure, there could be an area for small or lower quality vehicles that charge lower prices, as well as an area to provide higher quality services (limousines, hire-cars etc). The availability of these different types of services, indicative costs and their departure points would need to be clearly indicated by signs in airport arrivals areas.

The phone booking market

Unlike the rank and hail markets, conceptually there is a less compelling case for setting prices in the taxi phone market. Taxi users making bookings by phone have lower search costs, can choose between taxis and hire-cars and, as they are not in a position of having to take the first available cab, they are less vulnerable to drivers who wish to exploit acute shortages that may occur during peak times.

There is already evidence of forms of competition in the phone market. For example, in major Australian cities the expansion in mobile phone use has facilitated the development of sub-networks within taxi companies, whereby groups of drivers offer a ‘premium’ service (at the normal taxi rate) to attract repeat business from regular taxi customers. This type of brand naming for quality or price would become more common with the removal of entry restrictions.

A mixed regime?

If entry restrictions were removed, functional differences between the major market segments suggest that, in principle, three different fare regimes could be contemplated for taxis:

- uniform fare regulation at major airports;
- posted prices in the rest of the rank and hail market; and
- no fare regulation for phone bookings.
A mixed regime along these lines would target regulation to where it was necessary, while offering maximum freedom to operators and customers to negotiate where there is not a significant imbalance in bargaining power. However, in practice, such a mixed fare regime — overlayed with charges that could potentially vary for different periods in the day — is likely to be complex, costly to administer and confusing to consumers. In addition, such a mixed regulatory regime encompassing different levels of regulation in markets that are close substitutes can in itself lead to resources being misallocated (eg artificially diverting demand from the cruising to the phone market).

The preferred option

Based on existing regimes in Australia and overseas, more practical approaches to regulating fares are a posted price system or a deregulated regime, with a regulated fare applying, where necessary, at major airports. With each of these alternatives, a regulated maximum fare could apply if there is considered to be a need to restrain overall prices.

The choice between these alternatives will be influenced by the nature of the market. For example, in cities where a large proportion of business originates from ranks, a posted fare regime could be the most attractive option. On the other hand, in smaller markets where the majority of business is via phone bookings, users are less vulnerable to exploitation and a deregulated approach could be appropriate.

In major cities, posted prices, coupled with a fixed airport fare, may be appropriate. In smaller cities, with a strong phone booking market, fully deregulated fares should be considered.

In the longer term, competitive pressures are likely to reduce the need to maintain maximum fare regulation (other than at some major airports), unless price gouging becomes a problem in a deregulated market. However, the Commission considers that there is a strong case for maximum fare regulation during the transition to unrestricted taxi licences. More specifically, there would be significant risks in removing maximum fares before entry is fully deregulated. If fares were deregulated, but the number of taxi plates were still restricted to some extent, it is possible that fares could rise above present levels. This could occur sporadically or, if the relaxation of entry restrictions was gradual, could continue for some time until the increase in the number of licences was sufficient to temper fare increases.

The retention of maximum fares during the period in which entry restrictions are removed would not necessarily lead to the uniform charges which presently characterise taxi markets throughout Australia. With a larger number of taxis
competing for business, there would be a greater likelihood of price competition. The regulated maximum fare would probably remain the ‘standard’ fare, but it could also be the benchmark from which discounts are offered. For instance, companies could compete on price to secure a larger customer base by:

- offering permanently discounted fares, either all day or during specified off-peak periods;
- negotiating discounts with major customers; and/or
- offering (and advertising) pensioner or welfare recipient discounts and the like to capture more price-sensitive customers.

A possible objection to maximum fares is that it could preclude suppliers offering higher quality services. This would certainly be a problem if the regulatory distinction between hire-cars and taxis were abolished (eg if hire-cars were subject to the maximum fares applying to taxis). However, as long as hire-cars — operating in the phone market — could offer whatever price and quality combination they wished (including premium services), setting maximum fares for taxis would not unduly restrict the range of services available to consumers.

The Commission considers that maximum fares should be retained during the transitional period to open entry.

3.3 A different regulatory regime for hire-cars?

At present, hire-cars are regulated under a separate regime to taxis. Fares are not regulated, but there are two forms of entry restriction. First, there are restrictions on the total number of hire-cars and, second, hire-cars are not permitted to compete with taxis in the cruising market.

Under these arrangements, other than in Adelaide, competition from hire-cars has had limited impact on the taxi industry, largely owing to the restricted number of hire-cars. For example, in Sydney, there are only 240 unrestricted hire-car licences — equivalent to about 5 per cent of the number of taxi licences. Hire-cars tend to offer premium services using more expensive models of vehicle. However, if entry is deregulated, then, based on the experience in Britain where the rival mini-cab industry now offers both high and budget quality services, competition with taxis would almost certainly increase. Indeed, Radbone (1998) suggests that, in the absence of regulatory restrictions, hire-cars could outnumber taxis in South Australia within ten years.
An argument in favour of abolishing the distinction is that the distinction is artificial — both taxis and hire-cars provide similar and competing services and should, therefore, be regulated in the same way. Hire-cars could then compete alongside taxis in the rank and hail market if they wished.

In the longer term, the Commission sees little reason for retaining the distinction. However, it recognises that, as a transitional measure, there could be grounds for continuing the restriction on hire-cars competing in the rank and hail market. For one thing, permitting hire-cars to compete in these markets would add to adjustment pressures. For similar reasons, the lifting of restrictions on the number of hire-car licences would need to be linked to the time period over which the entry restrictions applying to taxis were removed (see chapter 4).
4 Compensation and adjustment assistance

Concomitant with proposals for the deregulation of the taxi industry is the need to consider two important implementation issues — adjustment assistance and compensation. This chapter explores some of these issues, including:

- the form, rationales and the relationship between adjustment and compensation;
- adjustment and compensation issues specific to taxi deregulation; and
- practical considerations associated with compensation (eg design criteria such as targeting).

4.1 Some general principles

In principle, a distinction can be drawn between adjustment assistance and compensation in terms of their underlying rationales. Adjustment assistance is commonly viewed as a measure that seeks to facilitate adjustment to new circumstances, whereas compensation is a form of restitution for losses arising from government action. However, in practice, it sometimes can be difficult to discern whether government action is more accurately portrayed as compensation or, alternatively, adjustment assistance. In large part, this is because the two measures are not mutually exclusive — for example, compensation payments can also help individuals to adjust to changed circumstances.

Compensation

In its simplest form, compensation involves cash transfers to the ‘losers’ of a policy change to restore, or partially restore, their pre-reform position (ie wealth situation).

From an efficiency perspective, some argue that there is no case for compensation because it erodes the benefits of reform (eg it can give rise to losses associated with raising additional tax revenue). In contrast, others consider that failure to compensate for major policy changes can undermine investor confidence and lead to intensified efforts by vested interests to seek to have reforms stopped.
In practice, public policy decisions encompass considerations that extend beyond efficiency criteria to include notions of equity and ‘fairness’. For instance, when a policy change imposes substantial losses that are concentrated on relatively few individuals, it is often regarded, in the absence of compensation (restitution), as unfair, even though the change may bring about net benefits for the wider community.

**Adjustment assistance**

The term ‘adjustment assistance’ is commonly used to describe a broad family of policy instruments which aim to help individuals and firms adjust to changing circumstances.

Adjustment assistance is underpinned by the social ‘safety-net’, which includes long standing arrangements to provide income support for disadvantaged people in the community and those suffering hardship (eg unemployment and carer’s allowance, and labour market measures). The ‘safety net’ is the first, and often only, port of call for many individuals adversely affected by change (whether policy or market induced).

One form of adjustment assistance, which has been used widely in the past, is the phased implementation of reforms (in effect, tapered support). Phasing has often followed advance notice of the policy change.

Adjustment assistance can also include initiatives tailored to meet the specific circumstances of individual reforms, such as industry plans or region-specific training initiatives. Specific adjustment assistance is more likely to be warranted if the effects of the reform are large and are concentrated in vulnerable regions where the scale of the ‘shock’ is likely to have a powerful ‘knock-on’ impact that could lead to regional decline, and/or the activity subject to reform displays ‘problem’ labour market characteristics (eg a predominance of older workers or people with specific and non-transferable skills who may require retraining).

The taxi industry does not closely mirror these characteristics. It operates mainly in larger more diversified population centres, where it represents a small fraction of total activity. Moreover, the adjustment costs from deregulation would be borne by those who own taxi licence plates — ‘pure’ investors and owner-drivers — rather than the majority of drivers who operate taxis with leased plates and the many part-time drivers. Indeed, deregulation is likely to result in employment opportunities within the industry expanding rather than contracting.
Nonetheless, given that the taxi industry and consumers have over many decades become accustomed to operating within a tightly regulated environment, there could be a case for some adjustment assistance — in the form of advance notice and phased implementation of reforms — to facilitate the orderly transition to a deregulated environment.1

The following discussion focuses on the more contentious question of whether compensation should be provided to the ‘losers’ of deregulation of the taxi industry.

4.2 Compensation for taxi deregulation

The value of taxi licence plates on the open market varies between cities, but is typically over $200 000 — for example, around $280 000 in Sydney and the ACT and $350 000 in areas of the central coast of New South Wales (FRG 1999). While opinions vary about the extent to which taxi plates embody a monetary component for ‘goodwill’, their value is essentially a reflection of scarcity created by the entry restrictions to the industry (the so-called ‘quota rent’). Thus, the value of taxi plates could potentially fall substantially — possibly to zero — if entry restrictions were abolished.

The case for compensating incumbent plate holders for the diminution in the value of their asset is complex. Factors which bear on the decision whether or not to compensate include:

• whether governments should protect the value of those ‘property rights’ which owe their existence to regulation;
• whether policy actions that leave some individuals significantly worse off are inherently unfair and require restitution; and
• broader considerations such as the ability to progress some reforms more readily if accompanied by compensation, and also the down-sides of such an approach.

These factors are discussed, in turn, below.

Property rights-based arguments

A key issue relates to the status of the ‘property right’ created by government restrictions on taxi licences.

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1 To the extent that any compensation is provided to offset the losses experienced by licence holders, there should be an attendant reduction in the phasing timetable (see section 4.3).
In some areas, individual’s property rights — and compensation rights — are well defined. However, in many areas they are unclear and, ultimately, claims need to be resolved by the courts. For example, under the Australian Constitution, landowners have a Constitutional right to ‘just compensation’ should their land be compulsorily resumed. However, other government actions can also affect land values, including changes in zoning and land use regulations, without attracting compensation.

A taxi licence is an asset that has been created by an explicit government policy that is intended to provide the community with taxi services which are efficient, safe, affordable and of an appropriate quality. While the factor from which the value of the licence stems — the entry restrictions — may not be essential to the achievement of these objectives, it has been an integral element of taxi regulation throughout Australia. Nonetheless, it is difficult to say that measures used to pursue these objectives came with a guarantee that they would continue in perpetuity. Indeed, all governments have periodically increased the number of taxi licences (which has resulted in changes to plate values), although often the increase has been in line with (or less than) population growth.

In ascertaining whether landholdings have a different status from ownership of a taxi licence plate, one view, summarised by the following legal reasoning from the United Kingdom, is that:

Property rights arising in licences created by law (enacted or delegated) are subject to the conditions created by law and to an implied condition that the law may change those conditions. Changes brought about by law may enhance the value of those property rights (as the Regulations of 1978 enhanced the value of taxi plates by limiting the numbers to be issued and permitting their transfer) or they may diminish them ... But an amendment of the law which by changing the conditions under which a licence is held, reduces the commercial value of the licence cannot be regarded as an attack on the property right in the licence — it is the consequence of the implied condition which is an inherent part of the property right in the licence (from J. Costello in Hempenstall et al v The Minister for the Environment (1992) quoted in Kenny and McNutt 1998).

This legal reasoning implies that the property right status of a taxi licence is a consequence of its conditions, which governments have a right to vary. Put another way, this is analogous to stating that sovereign risk in such situations should not be regarded differently to market risk. On the other hand, the actions of some governments in auctioning licences or allowing them to be traded could be

2 Interestingly, state Constitutions do not provide for compensation for compulsory acquisition of property (Walsh 1999).
construed as a governmental imprimatur for recognition of their value and status as a property right (like land).³

In Australia, governments have not reacted in a consistent fashion to situations in which they have created ‘property rights’ and then subsequently eroded their value or removed them. For instance, when the egg industry was deregulated in New South Wales, compensation for the loss of value of egg quota holdings was paid to egg producers. Recently, the Commonwealth Government announced compensation for dairy farmers as part of a deregulation package that will, among other things, devalue market milk quotas. On the other hand, removal of licences held by importers for a range of quota protected manufacturing goods has not generally been accompanied by compensation. Indeed, many other activities subject to reforms which have devalued or removed rights have not been compensated — for example, the loss of income for members of the legal profession when some governments removed their exclusive right to engage in conveyancing of property.

A case for compensation is strongest where Constitutional rights are involved and where governments have entered into a specific contract to do so. For example, Forsyth (1999) reports that ‘in Victoria, the state government has contracted to compensate the private developers of the Citylink toll road should it [the Government] make transport investments which reduce the demand for the toll road’. In this instance, there is a specific rather than an implied contract. However, in the absence of this type of arrangement, there is no clear cut rule as to when compensation does, or does not, apply if government action erodes the value of government created ‘property rights’.

Aside from property rights, the consideration of compensation can also hinge on notions of fairness and, at times, pragmatism (eg a need to ameliorate opposition to unpopular, but beneficial, reforms). These issues are outlined below.

**Fairness and equity arguments**

If a policy change imposes disproportionate losses on a minority of individuals, it can be regarded as ‘inequitable’ or ‘unfair’ and warranting compensation. Equity is usually raised as a concern if a particular reform will have a regressive distributional effect — such as a policy initiative which delivers significant gains to the wealthy and imposes large adjustment costs on less well-off people. Fairness, on

³ Had licences been issued at an administrative cost and been non-transferable, a case for compensation would be unlikely to arise (albeit that, if permitted, a leasing market would still reflect the quota rent). In this situation, deregulation could be seen as an ‘offset’ to the windfall gain that the original licence holders benefited from when governments granted them licences.
the other hand, tends to be a more flexible notion which can vary markedly depending on a person's 'values' — for example, a reform which subjected a group of individuals to large, unexpected and uncompensated losses would be regarded by many as 'unfair', even if it redistributed income from (say) two-income households to a group of disadvantaged individuals.

As the case for compensating the losers of reform can vary depending upon the circumstances of different groups affected by change, it is useful to consider the broad structure of the taxi industry.

The three most relevant sectors of the taxi industry for this purpose comprise:

- 'investors' — those who have little involvement in the industry other than leasing their plates;
- owner-drivers — plate owners who also drive taxis; and
- lessee-drivers — drivers who lease the plates from owners.

Although this is a simplification of the industry's structure (it sets aside the role of taxi companies and co-operatives, taxi networks and operators of taxi businesses), it is useful in assessing the impact of reform on different participants.

The proportion of participants in each of these broad categories varies between cities. For example, around 80 per cent of plates in the Darwin area were owned by investors with no other direct involvement in the industry. In Sydney, IPART (1999) reports that a much smaller proportion — approximately 50 per cent — of licence owners are investors who lease their plates to taxi companies.

The values stemming from barriers to entry in the taxi industry are appropriated by licence plate owners — that is, investors and owner-drivers. Lessee-drivers have no claim over the value of the plate, but they do have to cover the costs of leasing the plate. Thus, they would not experience a capital loss if the entry restrictions were lifted and plate values fell.

Although detailed information is not available to the Commission, in some cities large investors hold multiple plates. Given this structure, it is valid to question whether 'professional' investors — those that lease a number of plates — should be expected to better understand the risk associated with the asset and have a stronger financial capacity to 'wear' that loss. Argy (1998), for example, considers that the case for compensation is stronger when the change is an unexpected breach of long standing tradition and those who are hurt are relatively poor.

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4 Much of the 'quota rent' in taxi licences could also be appropriated by governments if they auction new plates.
It is also pertinent to consider the differential impact of deregulation upon new plate holders, who paid current market prices to enter the industry, versus long term incumbents (LTIs) in the industry — many of whom would have received a ‘freely allocated’ plate. ‘Newcomers’ would unequivocally be worse off following deregulation. For the LTIs, it may be argued that, depending on their time of purchase and the price they paid, they could have paid off their initial investment and are facing the loss of a potential capital gain rather than realising a capital loss.

In discussing fairness, it is necessary to extend the discussion beyond what is fair for the ‘losers’ of reform. Governments also have an obligation to the ‘losers’ of restrictive licensing — the taxi-using public. Compensation (funded by users) and phasing extend the duration of consumer losses. Further, as outlined previously, studies indicate that taxi industry regulation is particularly regressive — thus, the poor are the most disadvantaged.

In determining fairness, it is also relevant to consider parallels with other situations where government actions have disadvantaged regions, firms or individuals.

**Broader considerations**

Instances of reform where compensation is not a normal part of policy include:

- the removal of cross subsidies which have advantaged some users of goods and services supplied by government business enterprises (eg subsidised rail freight);
- the devaluation of farm infrastructure investments as a result of initiatives to move toward full cost pricing for irrigation water;
- reductions in tariffs and local content schemes that effectively devalue sunk assets (eg textile plant and equipment);
- deregulation in other areas of licensing and quantitative restrictions (eg poker machine restrictions and opening up competition in the professions); and
- changes in superannuation.

Drawing up decision rules to discriminate between those losses that warrant compensation and other losses is complex. In practice, they may not lead to consistent treatment across activities. This is highlighted by the divergent approaches adopted by governments in relation to taxi deregulation. For example, in the Northern Territory, a ‘full compensation’ package was introduced at a cost of
around $27 million. On the other hand, in New Zealand, sweeping taxi industry reform was introduced without compensation.  

The IPART interim report does not examine the issue of compensation. Indeed, a stated objective in that report is not to erode the value of existing licences too quickly. This may be based on a view that a long phasing period can obviate the need for compensation. However, phasing, of itself, provides only partial, tapered compensation (unless it is over a very long time frame). A formal announcement of a more liberal regime in the future, with or without phasing, would have an immediate negative impact on licence values.

Finally, it needs to be recognised that payment of compensation in one area could promote expectations for like treatment in other areas of reform, even to the extent of seeking compensation for market-, rather than policy-induced, change. This could encourage others facing losses to agitate for compensation, thereby stalling some reforms or forcing the introduction of modifications which reduce the benefits. In addition, ‘rent-seeking behaviour’, leading to excessive resources being diverted to lobbying, would be encouraged — an unproductive activity from a national perspective.

Whether and what level of compensation should be paid depends on assessments by governments of a range of matters such as equity, perceptions of fairness, the possibility of reform not proceeding in the absence of compensation and the nature of the taxi industry in each jurisdiction.

On the basis that some governments may (as happened in the Northern Territory) elect to provide compensation in deregulating the taxi industry, the next section discusses the appropriate amount of compensation and how it could be delivered.

### 4.3 How much compensation?

If compensation were to be provided as part of taxi industry reform, key considerations that bear on the amount of compensation are:

- the extent to which licence values derive from regulation;
- compensation package design issues (eg who should be compensated and by how much); and
- any accompanying phasing of reform and its duration.

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5 It should be noted, however, that the value of taxi licence plates in New Zealand were much lower (around A$20 000-25 000) than in Australia.
A starting point for an assessment of the appropriate level of compensation is the value of the asset that is ‘at risk’ and the factors from which this value is derived.

**The value of plates**

In broad terms, the market value of plates reflects the present value of expected future excess profits from a constrained competitive environment. However, it is possible that not all of the value of the licence reflects the scarcity rent from entry barriers. For example, IPART considers that a significant proportion of a New South Wales taxi licence — $120 000 to $180 000 — is made up of ‘goodwill’. This implies that the scarcity value of a licence from restricting entry is of the order of $100 000 to $160 000.

If these data are correct, licences would retain a value of over $100 000 in the face of full deregulation. This would significantly reduce the cost of any compensation package. However, the Commission does not agree with these estimates (see box 4.1). It considers that the price of a taxi licence essentially reflects its scarcity value.

**Compensation design issues**

**Funding**

A compensation package may be constrained by the projected costs. For instance, the compensation package for the Northern Territory taxi industry cost around $27 million, with compensation based on the last tendered price of a taxi licence in a particular area plus CPI. This was effectively a current market value approach which would cost well over $1 billion in Sydney alone. Apart from absolute cost considerations and an assessment of equity between licence holders and the taxi-using public or taxpayers more generally, the mechanism for funding compensation is also contentious. The two major forms of funding compensation — from beneficiaries (ie taxi users) and/or taxpayers — are discussed below.

**Beneficiary pays funding**

A beneficiary pays approach involves compensation being paid by those who stand to benefit from reform — in this case, taxi users. This could take various forms such as, for example, a levy on taxi journeys or an increase in licence fees — both of which would be passed onto users.
Box 4.1 Licence plate values: what do they comprise?

An issue in determining compensation is whether the whole plate value, or only a part, is attributable to the returns a licence generates. The excess returns arising from the entry restrictions not only provide an indication of the losses that would be experienced by plate holders, but also the minimum level of benefits to consumers from deregulating entry.

IPART suggests licence values of $280 000 in Sydney are a combination of goodwill and economic rent. About $120 000 to $180 000 is said to reflect goodwill, with the remaining $100 000 to $160 000 arising from the scarcity value from restricting entry.

The Commission considers that, while some taxi operators may earn returns that reflect goodwill, it is likely that this is through superior driver service rather than any inherent goodwill attaching to the plate. Goodwill is an intangible asset separate from the value created by the licence restriction. Thus, it would exist even if there were no entry restrictions. Indeed, if plates were freely available, why would anybody pay goodwill to obtain one? The Commission considers that the profits that IPART suggests are goodwill are really a reflection of higher prices and/or greater occupancy rates resulting from the restriction in licence plates.

The best indication of the annual return purely attributable to the plate is its lease value — $18 700 in Sydney. This is also the best indication of the transfer of costs from consumers to plate owners caused by the restrictions.

An income stream of $18 700 does not equate to a value of $280 000 except at low discount rates (6.7 per cent in perpetuity — equivalent to the current long term bond rate, which involves no risk). However, two factors may explain why plate values in Sydney are higher than the present lease values would suggest should be the case:

- Firstly, investors could reasonably have an expectation of increases in lease values in the future (which can manifest itself over time as increases in the value of the plate — in much the same way as the value of a share on the stock market may rise based on future expectations).

- Secondly, owner-drivers may be willing to pay more for a taxi plate than could be justified purely in investment terms because they consider that plate ownership guarantees them employment and control over their work ('buying a job').

Importantly, the composition of plate values appears to differ among jurisdictions. In Canberra, plates also trade for around $280 000, but lease for $26 000 a year. An income stream of $26 000 explains a much greater proportion of the licence value than in Sydney. Correspondingly, there appears to be a lower expectation of increases in lease rates in Canberra.

Sources: IPART 1999; FRG 1999 and Commission estimates.

The latter approach was adopted by the Northern Territory Government which provided an up-front compensation payment (from the budget) that will be recouped (in around nine years) through taxi (and hire-car) licence fees. This approach
imposes (continuing) costs upon users — such as lower consumption and higher prices than would otherwise be the case.

Compensation delivered in this form represents an up-front payment to plate holders of the capitalised value of the stream of transfers from consumers. Thus, consumers would continue paying these transfers up until the compensation package was fully funded, but, assuming the supply of taxis increased, some benefits (eg reduced queuing, more product innovation and consumer choice) would commence immediately.

The extent and timing of price benefits for consumers is dependent upon the nature of the measures to recoup the cost of the compensation package. For example, if compensation is funded through licence fees, a fee set between zero and current market lease rates for taxi plates would be expected to deliver some early price benefits, but the full price benefits would not eventuate until the compensation was fully funded and the licence fee ‘surcharge’ removed. Conversely, a fee set higher than market lease rates would initially increase fares, but the transition to a deregulated price would be achieved more quickly.

If compensation is funded through higher licence fees, it is important that the cost of new licences not reduce the demand for licences to the point where licence revenues are insufficient to fully fund the compensation package (except over a very long time frame) or that they represent an unduly high barrier to entry.

**Taxpayer funded compensation**

Another approach would be to fund compensation from general government revenue, thus spreading the costs of a compensation package over taxpayers (including, of course, those who may not use taxi services). Like the beneficiary pays model, compensation would represent an up-front (or perhaps staged) payment from the government to plate holders. In this case, taxi consumers would derive immediate price benefits.

Under a taxpayer funded compensation model, apart from the opportunity cost of revenue transferred to licence plate holders (ie money no longer available for other goods and services such as health care), governments would need to be mindful of the so-called ‘deadweight’ costs of taxation.

The deadweight cost of taxation is a measure of the losses incurred by producers and consumers (including losses in ‘well-being’), over and above the tax raised.6

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6 That is, consumers consume less of the taxed good and pay more for it, and producers receive a lower profit on a lower volume of output consumed.
Albon (1997) estimates that this ‘efficiency’ cost, from combined Commonwealth and State taxes, ranges from a low of 10 cents per dollar of revenue raised for wine to over $1.30 for spirits. Gabbitas and Eldridge (1998) provide a summary of estimates for several State taxes — for example, payroll tax (3–12 cents per dollar of revenue raised), petrol (40 cents) and tobacco (34 cents).

Gabbitas and Eldridge (1998) and others, including the Industry Commission (IC 1994) conclude that currently the States and Territories have tax bases that are reliant upon relatively inefficient taxes (eg payroll tax, stamp duties and taxes on financial transactions). Some taxes are also highly regressive (eg tobacco, alcohol and gambling). As taxi industry compensation funded from general revenues (as opposed to beneficiary pays models) would, by definition, come from State and Territory budgets, the deadweight cost of taxation is likely to be high.

Targeting and ceiling rates

The cost of raising the revenue to fund compensation is not the only reason why governments might consider capping payments below the current market value of licence plates. Other relevant factors are:

- To the extent that:
  - plate costs reflect more than their value in pure investment terms (eg the security value of ‘buying a job’); and
  - there is a goodwill component in the value of licence plates (which the Commission doubts — see box 4.1);
then, compensation based on current market values — which reflect these influences — would exceed the losses experienced by plate holders. Thus, any compensation package should be discounted by any goodwill and security value in the plate.
- If compensation is to be paid in tandem with other forms of adjustment assistance — such as phasing — then the net present value of that phasing should be discounted from any compensation package.

Other factors which could have a bearing on the level (and distribution) of compensation relate to:

- the degree of ‘speculation’ embodied in the market value of plates;
- the different impacts of reform upon new entrants to the industry and LTIs; and
- the capacity of individual plate holders to absorb losses.

These are considered below.
Speculation

The market value of plates reflects plate holders’ ‘speculative’ assessments — based on past trends — about the net present value of expected increases in future earnings from a constrained regulatory environment. In this context, it may be considered that compensation based on market values would mean that those paying for compensation (i.e., taxi users or taxpayers) would have to bear the burden for future expected ‘rents’ that may, or may not, have arisen — akin to paying a winning bet before the race is run.

If this argument is regarded as having merit, compensation could be capped at the net present value of the stream of income given by the current lease rate.

Long-term incumbents and new entrants

Full compensation would provide the realisation of a windfall gain for the many LTIs — in particular, those who have benefited from the receipt of freely allocated licence plates. Consequently, some have argued that compensation should be restricted to recent entrants who have not had sufficient time to amortise the cost of the licence. For example, the Northern Territory Government previously submitted to the Industry Commission (IC 1994, p. 403):

... compensation should be restricted to those licensees who have recently entered the industry... This will avoid a windfall gain to those plate holders who have been in the industry for some time and have covered the cost of their plate many times over.

If it were considered to be ‘fairer’ to skew compensation in favour of more recent entrants, one approach would be to base the amount of compensation on the purchase price of licence plates indexed to the consumer price index (CPI). This would mean that recent plate holders would be compensated for the loss of the entire value of their purchase (i.e., the current market value). On the other hand, LTIs, having been compensated for their purchase price only, would face the loss of a potential capital gain (i.e., the current market value less the indexed purchase price). Those who received a freely allocated licence would not be compensated.

The Industry Commission did not favour such an approach because it considered that it would make any compensation scheme more complicated. It also stated that, while it would be possible to devise compensation schemes that might be seen as ‘fairer’, all plate holders suffer the same loss regardless of when they obtained their plate. It could also be argued that some LTIs may have structured their ongoing consumption and investment decisions on the understanding that the inherent value of their taxi plates provided a form of superannuation. (Indeed, some ‘investors’ may be people who have invested their severance pay ‘nest egg’ in a taxi plate.)
If skewing compensation payments to new entrants is considered to be ‘unfair’, the available compensation fund could be distributed in equal shares across all licence plate holders.

**Capacity to absorb losses**

Some government social welfare payments (eg the age pension) are subject to an income and/or asset test to demonstrate the need for government support. A form of this approach could be applied to any compensation provided to licence plate holders. This would tend to direct compensation payments to individuals with relatively few assets and/or income sources rather than to ‘professional investors’.

Whatever the form of compensation (if adopted), the clear winners would be LTIs who sold their plates prior to deregulation (even recognising some adjustment for capital gains tax paid on the sale of post-1985 assets).

**The phasing/compensation nexus**

As noted earlier, in practice, the distinction between adjustment assistance and compensation is often blurred. Indeed, compensation and adjustment assistance are not mutually exclusive. Each can be used to progress to a desired end-point, but they can differ in terms of timing and the incidence of costs and benefits (box 4.2).

**Box 4.2 Compensation and phasing**

**Beneficiary pays compensation**: Where entry restrictions are removed and the government provides compensation up-front funded by a levy on taxi users or higher licence fees, taxi users derive some immediate gains such as reduced queuing and greater choice. However, as the measures used to fund compensation increase taxi operating costs or fares, the full extent of price benefits, and hence increased consumption of a lower cost service, will not be realised until the compensation has been recouped and taxi fares fall.

**Taxpayer funded compensation**: Where entry restrictions are completely removed and the government pays compensation up-front, taxi users receive full and immediate price, quality and consumption benefits. This is because, in this instance, the income transfers from taxi users to licence holders are paid up-front by all taxpayers — including non-users of taxi services — but not recouped from taxi users.

**Phasing without compensation**: The time frame of any phased deregulation of entry restrictions bears directly on the timing and magnitude of consumer gains and licence holder losses. For taxi users, the price, quality and consumption benefits accrue over time and are fully achieved only when the entry restrictions are completely liberalised. The transfers from taxi users to licence holders continue over this period. However, unless this phasing period is of an inordinately long duration, the quantum of transfers will be less than that which would arise under compensated approaches.
Relative to a compensation approach, phasing defers the achievement of efficiency gains, but reduces the size of transfers from taxi users to licence holders. The two compensation approaches also differ in terms of who pays for the transfers to licence plate holders. Thus, while taxpayer funded compensation models can provide immediate price and efficiency benefits for taxi users, this is at the expense of those taxpayers who do not use taxi services (even with lower fares).

Policymakers may opt for a combination of adjustment assistance (such as phasing) and partial compensation. In these circumstances, the longer the phasing period, the lower should be the compensation.

The range of options for implementing the easing, or removal, of entry restrictions in the taxi industry can be classified into four broad categories:

(i) **Deregulation without compensation**: This is essentially the New Zealand model involving rapid removal of entry restrictions without compensation.

(ii) **Deregulation with ‘full’ or partial compensation**: This approach would include the model adopted by the Northern Territory which involved the removal of entry barriers accompanied by compensation based on the market value of licences.

(iii) **Phased implementation without compensation**: This option includes the model in IPART’s interim report which involves a progressive freeing up of entry barriers with a further review in five years’ time.

(iv) **Phased implementation with partial compensation**: This option could include, for example, option (iii) with some compensation for plate owners.

Under options (ii) and (iv), possible variations derive from the method of disbursement of compensation (eg equally or skewed to new comers) and the method of funding the package (eg a levy on fares, increased taxi and hire-car licences fees, or taxpayers in general).

### 4.4 Concluding comments

The provision of compensation is a complex but important matter for governments to resolve. Whether compensation should be paid — and if it is, how much and in what form — depends on how governments view a range of factors including:

- efficiency and equity;
- perceptions of fairness; and
broader, often pragmatic, considerations.

To assist decision makers, box 4.3 contains a (non-exhaustive) set of issues which could be taken into consideration in assessing the merits or otherwise for compensation to accompany taxi industry reform. More overtly ‘political’ concerns are not included.

If compensation is to be provided, the Commission considers that the following considerations should be borne in mind.

- There is an inverse relationship between the length of phasing and the magnitude of any compensation package. Indeed, full compensation implies no need for phasing.
- Compensation should not exceed the current market value of taxi plates discounted by any goodwill or value associated with acquiring a job incorporated in the value of the plate;
- Funding compensation by increasing state or territory taxes is likely to result in significant costs (deadweight cost of taxation);
- Compensation payments could be allocated amongst plate holders in equal shares, skewed toward those who have purchased plates more recently or ‘means tested’ to target payments to those most disadvantaged by deregulation.

Governments could also consider the merit of capping compensation payments based on:
- the net present value of the stream of income given by the current lease rate; or
- the purchase price of plates (indexed to the consumer price index).
Box 4.3  **Factors relevant to the consideration of compensation**

**Efficiency considerations**
- Will compensation facilitate or hinder adjustment?
- What are the efficiency benefits of providing compensation?
- What are the efficiency costs of compensation funded from the budget and/or users?
- Can compensation be delivered without creating unintended distortions?
- Can licence holders be clearly identified and compensation quarantined?
- Can compensation be made transparent with low administrative and compliance costs?

**Equity/fairness considerations**
- What is the nature of the taxi licence property right (e.g., Constitutional, quasi, implied)?
- Was any contract or implicit guarantee given that the degree of restrictiveness (and thus ‘economic rents’) from taxi regulation would be maintained?
- Have significant changes in the nature of licence plates from government action occurred in the past or would deregulation mean that plate holders are subject to completely unanticipated reform?
- If licence plate holders are to be compensated for wealth-reducing reforms, have they also been taxed for policy changes which have enhanced their profits (e.g., periods in which no new licences have been allocated)?
- Have governments appropriated any of the ‘economic rent’ through plate auctions?
- Would (uncompensated) reform result in adverse distributional consequences — for instance, what is the wealth profile of plate holders and taxi users?
- Should actual capital losses (new entrants) and losses of potential capital gains (those holding freely allocated licence plates) be compensated in the same way?
- Which groups will bear the burden of the costs of a compensation package?
- What will be the opportunity cost of budget funds expended on compensation and what are the likely distributional consequences?
- Are the interests of plate holders and taxi users and/or taxpayers well represented or does one group have a more effective ‘voice’?

**Broader considerations**
- Is taxi reform unlikely to proceed without compensation?
- Is compensation likely to encourage calls for similar treatment from other activities subject to reform with attendant deadweight costs (e.g., diversion of effort into rent-seeking and lobbying)?
- Will the payment of compensation make the achievement of future reforms difficult?
- What are the relative efficiency and equity outcomes of various phasing-compensation packages — ranging from full compensation with no phasing, to no compensation with a very long phasing period?
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Hi Trevor & all,

I collected a couple of articles from Taxi Council Queensland’s Taxi Magazine. It gives some of their perspective on Uber, the competition review and regulation.

Interestingly, the Minister for Transport has already contacted TCQ to assure the industry of their continued support.

Cheers

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Queensland Government
TCQ Magazine Articles

Last Word
Benjamin Walsh TCQ CEO (Issue 1 2015)

It hardly seems possible that, as I write this, I have been at the helm of Taxi Council Queensland (TCQ) for three years. In that time there has been a landslide victory to the LNP followed by a substantial swing back to the centre. I don’t think anyone expected to see a Palaszczuk Government – minority or otherwise.

It is encouraging that TCQ has already been contacted by Deputy Premier and Minister for Transport, Ms Jackie Trad, to confirm the ALP will honour their pre-election commitment to see illegal ride-sharing comply or cease operating altogether in Queensland. I’m sure we all look forward to seeing a levelling of the playing field.

This year the Department of Transport and Main Roads will be undertaking a review of the Taxi Strategic Plan. The timing for this could not be better with a newly appointed government and the roll-out of the National Disability Insurance Scheme (NDIS). This will provide the perfect opportunity to revisit policy issues including full integration of meters, licencing, driver supply and the passenger lift fee.

Since November 3, 2014, TCQ has been running a community awareness campaign regarding the vagaries and risks of illegal ride-sharing. In addition to the advertising there has been a tremendous amount of effort across the state by industry to engage with MPs to ensure they are aware of the detrimental impact such activities may have on passenger transport.

Not only is the safety of passengers compromised, but the safety and financial security of ‘partner drivers’ is also compromised. Sadly, peddlers of such services are morally and ethically bankrupt by exposing innocents, who are likely looking for a few extra shekels, to unacceptable risks for their own gain. What makes matters worse is they are doing so through lies and deceit. I thought we had seen off such corporate piracy with the collapse of Enron and WorldCom some years ago, but alas, I was wrong.

In closing, I would like to thank everyone in the industry who has offered me their ongoing encouragement and support over the last three years. A special mention must go to Wayne and Nia who work tirelessly behind the scenes to ensure TCQ delivers the fundamentals of high quality member services each and every day. I believe we have struck a winning formula and look forward to continuing this work on your behalf for many years to come.

Competition Review: Small Business Sacrificed for the Big End of Town
By Max McBride, Taxi Council Queensland President (Issue 1 2015)

There’s been the review of taxi services in Victoria conducted by the Victorian Taxi Industry Inquiry (the Fels Review), as well as the Harper Competition Review instigated by the Federal
Government. These have occurred during a period of change in the urban transport market, where we've seen the entry of offering little more than a booking app seeking to gain competitive advantage by ignoring the Australian law.

These are all signals government is abdicating its responsibilities to the Australian people in the name of the so-called “free market”. Consequently, it has become abundantly clear politicians and some regulators understand little about the taxi industry; they believe regulation is unnecessary and they are prepared to reform the industry without serious analysis or proper investigation.

In terms of the Victorian inquiry, I believe the final recommendations by the Fels Review were clearly based on predetermined outcomes, with there being no real attempt to develop an effective regulatory framework that seeks to establish a consistent and fair regime while instigating enhanced service and quality outcomes for the community. It appears to me Fels’ recommendations were based on the premise that lower taxi fares and an increased supply will cause a significant improvement in service levels and innovation, resulting in substantial improvements in aggregate demand.

In previous issues of Qld Taxi I described this approach to taxi regulation as the “Fairyland Model” as the community benefits are mythical, having never been realised in any jurisdiction in which they have been implemented. In the real world, where markets and consumer buying behaviour is somewhat more complex, such simple-minded dogma isn’t of much value.

If Mr Fels needed proof of this assertion he only needed to properly investigate the Victorian taxi industry in the previous six years. This would have clearly demonstrated the folly of his philosophy. To recap, taxi fares in Victoria were not adjusted from 2007 to 2014. In this time the Victorian Government released 530 taxi plates. So what has happened to aggregate demand in the Victorian taxi industry? Surprise, surprise... demand in Victoria for taxi services fell off a cliff in the previous seven years, not increased as the “Fairyland Model” would have us all believe.

Mr Fels only had to open his eyes and look in his own Victorian backyard. Unfortunately, however, such action would have been inconvenient to the predetermined outcomes he and his inquiry wanted. Obviously, any industry forced to endure seven years of such contrived market conditions must suffer with falling profitability, falling ongoing investment and deteriorating service standards, as industry participants cut standards and service levels in an effort to remain viable.

Ultimately, falling standards and service levels cause demand to fall – not rise. This is what has occurred in Victoria, which a proper examination of the market would have revealed. With taxi services as they are, with all goods and services, price is not the only determinant of demand. The customer’s perception of the product and the value it represents is arguably more important.
Much has been made by people like Fels and his cronies about the concentration of wealth and power within the taxi industry. Of course, without proper investigation, politicians, the community and the media tend to accept these claims at face value.

However, in my view this is not what has occurred. Mr Fels was not interested in the results achieved in Queensland. He could not be bothered to even come to Queensland to consider the irrefutable, documented benefits accruing to the community from sensible outcomes-based regulation. He was too busy to meet with Queensland regulators, although the inquiry could find the time to travel to the United States where the provision of illegal app-based services was in full swing.

Somehow, the changes recommended by the inquiry did not foresee or take into account the entry of new companies little more than a year later. Was this another failure of an inept inquiry or a deliberate act to secure the suggested predetermined outcomes? I’ll leave it to you, the reader, to decide.

To recap, the Queensland taxi industry comprises 3,264 taxi licences owned by more than 2,800 individual entities; approximately 1,200 taxi operators; 12,000 drivers who operate their own individual enterprises; 20 taxi contracted dispatch companies employing tens of thousands staff; and tens of thousands of small business suppliers. As a result of its structure the Queensland industry provides more than 60,000 people with the opportunity to invest, establish their own business enterprises and share in the bounty of this great country.

Essentially, the industry has a highly diversified wealth and power structure, with no individual or company able to dominate markets or exercise inordinate control over large sways of the industry. Put simply, claims the taxi industry is controlled by large cartels and protected by regulation is just plain rubbish and I would challenge anyone to demonstrate where regulation in Queensland has been designed to do anything but ensure high service levels to the community and protection to the consumer.

With this reality in mind, the Harper Competition Review draft report to the Federal Government recommends the deregulation of retail trading hours in the pharmacy industry and the taxi industry. Incredibly, the report uses the entry of illegal app providers into the Australian taxi market as evidence of the benefits of so-called “market forces”.

Companies such as uber are illegal and do not meet the standards required by the community or state/federal law. The idea an important government inquiry charged with the critical task of improving the level and quality of competition within the Australian economy could possibly use uber as its “poster boy” is astounding and demonstrates the ineptitude and folly present throughout the entire draft report.

Even a cursory look at uber would clearly demonstrate it fails to meet the most basic community standards. Firstly, no uber vehicle holds appropriate insurance, whether it is compulsory third party insurance, comprehensive insurance or public liability insurance.

There are numerous examples around the world where uber is facing litigation as a result of not having appropriate insurance coverage. The draft Harper Review report ignores
international experience in terms of the ability of the community to seek a legal remedy in
the event of injury to persons or property.

Secondly, uber drivers do not complete mandatory criminal and driving history checks. In
text of theory, an Ivan Milat or a serial paedophile could sign up with uber without being properly
scrutinised. The draft report ignores the rapes and kidnappings that have occurred with uber
services overseas, presumably preferring alleged free market principles to community
safety.

Thirdly, uber drivers do not have to complete accredited training through a registered
training organisation. Standards for the licensing of drivers are in place for good reason,
which the Harper draft report chooses to ignore, again preferring more competition to
public safety.

Fourth, vehicle standards do not meet a minimum safety standard, are never inspected in
terms of vehicle safety and do not meet any maximum age limit required within the taxi
regulation. In fact, in Queensland, uber will now accept nine-year-old vehicles, despite
legislation in Queensland requiring a maximum vehicle age of six years, with current vehicles
averaging less than two-and-a-half years.

Fifth, uber does not and will not pay tax in this country, nor any other country for that
matter. Sixth, uber utilises a surge-pricing model, which means as demand increases it
increases its prices. Consequently, manipulation of supply is possible by restricting the
number of vehicles allowed to be signed onto the system at any time, thereby potentially
causing an artificial under-supply, resulting in its surge pricing to be invoked. Surge pricing
is a synonym for price gouging and if an Australian company indulged in such practices the
Australian Competition and Consumer Commission (ACCC) would be all over them.
Apparently, this doesn’t happen if you’re a big American company. Taxis operate with
consistent, well-advertised and well-understood fare structures. Consumers are guaranteed
a service at a consistent rate regardless of location or customer type.

Seventh, uber does not meet any requirement to provide service to an entire service district
or the whole community, ignoring groups such as those requiring a wheelchair accessible
vehicle. That means no service to anyone wanting a short transfer in an outer suburb and no
service to anyone in a wheelchair, despite the requirements of the Disability Discrimination
Act. If the service is not commercial, uber don’t want to know about it – never mind about
societal obligations! So how is it a fair and free market when a big US corporation that pays
no tax and meets no community obligations can operate in a market where all other
participants adhere to a long list of social and legal obligations? Allowing uber to conduct
business in this way is un-Australian.

In the years that competition policy has been in vogue, governments of various persuasions
have continued down the road to ever-more deregulated economies. The protagonist of
these policies claim the role of government has become smaller and less influential in
society. No one has yet asked the question about where this process will end.
Will the role of government diminish to the point where they cease to be relevant in maintaining social cohesion and the intrinsic fairness of our society? What will happen when the boardrooms of a handful of very large corporations effectively run even larger sways of our community? Isn’t the abdication of responsibility by government in favour of big business essentially a move away from democracy toward some new form of totalitarianism?

The Global Financial Crisis was essentially a window to the future, where very large corporations indulged on the excesses of the so called “free market” unchecked, breaking laws no one has been held accountable for and stealing trillions of dollars from everyone from governments to pensioners. The response from governments from all over the world was to prop up these corporations as they are “too big to fail”. How can we as a society continue to advocate for more of the same policies that caused such a massive theft by the few from the many?

Incredibly, the Harper Review seems to have conveniently ignored these facts and is once again advocating for less regulation, perversely arguing this will result in a much more competitive economy. In fact, the very opposite has been the clear result of less regulation in the economy. A clear example of this has been the decimation of the Australian agricultural industry as a result of the concentration of power in the retail sector.

It is indefensible the Harper Review completely ignored the evidence and has made draft recommendations that will mean Australian farmers will be screwed even more while providing greater opportunity for the big retailers. Personally, I find it astounding that, despite the undeniable evidence of ever-greater concentrations of wealth and power in Australia resulting from a failure of legislators to deal with the excesses of big business, the Harper Review could possibly suggest the adoption of their recommendations will produce anything other than less competition – less individual opportunity, less innovation and a far less competitive economy.

In essence, the Harper Review recommendations are the very antithesis of an effective and market. Free markets only work when there are a large number of competitors offering products and services under a fair and consistent legislative and regulatory framework – in other words, a level playing field. Fair and consistent regulation is the most important element in creating a free market and any suggestion that blind adherence to the laissez-faire approach to economics as a viable alternative is comparable to religious fanaticism at its worst.

As I pointed out earlier, the taxi industry is one of the few industry sectors where big business has not been able to develop an undue amount of power and influence. Sadly, this situation is in danger of changing, not only caused by the nonsensical recommendations of the Harper Review but also by the illegal provision of demand-responsive taxi services by companies that utilise apps to book services. By any measure, these companies do not satisfy the regulation or legislation applicable to all other market participants.

In my view, all private businesses exist to deliver societal benefits. The reason private businesses fill this societal need is that they are able to deliver better outcomes, more
efficiently than other alternatives. When operating in a fair and consistent legislative framework these businesses create wealth and generate profits as a result of successfully satisfying community needs better than their competitors are able to. Big businesses on the other hand are singularly concerned with profit and dividends, relying on market power, political power, handouts from government and, in many cases, an ability to avoid paying taxes to satisfy these outcomes.

Big business is often not very efficient or innovative – attributes that are an inherent determinant in a true free market. So how is small business, the biggest employer in the Australian economy, expected to compete with big business when big business does not compete under the same regime? In reality, the dominating proponents of such policies, which no one can control, are setting Australia and the Australian people up for failure.

Page 50 of TCQ 50 years magazine
“i think one of the strong points with the industry over many years is the working relationship between the industry and Queensland transport. There’s always been this really close relationship and both sides are intent on improving service levels and the customer experience. That just doesn’t exist anywhere else in australia,” john says.

Australian Taxi Industry Association Data

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