



## POLICY ROUNDTABLES

# Taxi Services: Competition and Regulation 2007

### Introduction

The OECD Competition Committee debated improving competition in taxi services in October 2007. This document includes an executive summary and the documents from the meeting: an analytical note by Mr. Rex Deighton-Smith for the OECD, written submissions from Belgium, the Czech Republic, Denmark, France, Germany, Hungary, Indonesia, Ireland, Italy, Japan, Korea, the Netherlands, Norway, Romania, Sweden, Switzerland, Turkey, the United Kingdom and the United States as well as an aide-memoire of the discussion.

### Overview

Taxi services are subject to a variety of potential limitations of competition that most notably include entry restrictions in many jurisdictions. Such restrictions can take the form of clear overall limits on the number of licenses available for taxi driving or can involve rules that call for excessively high quality of cars or driver training. Such rules restrict the total number of suppliers and typically lead to an undersupply of services. In general, the value of such entry restrictions is converted into the value of licenses, rather than the earnings of a driver who rents their cab.

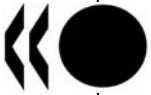
A further common focus of government oversight of the taxi sector includes price regulation. Pricing oversight may exist to prevent price gouging when drivers pick up customers on the street and the drivers have market power owing to an absence of other drivers. Another reason for pricing rules is to protect uninformed customers, such as with tourists, who might not be aware of pricing alternatives. At times, new professions have been introduced to increase the supply of certain services (like booking cars in advance).

### Related Topics

[Competition Issues in Road Transport \(2001\)](#)

**Unclassified**

**DAF/COMP(2007)42**



Organisation de Coopération et de Développement Économiques  
Organisation for Economic Co-operation and Development

**11-Sep-2008**

**English - Or. English**

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**DAF/COMP(2007)42  
Unclassified**

**TAXI SERVICES REGULATION AND COMPETITION**

**JT03250352**

Document complet disponible sur OLIS dans son format d'origine  
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## **FOREWORD**

This document comprises proceedings in the original languages of a Roundtable on Taxi Services Regulation and Competition held by the Competition Committee (Working Party No. 2 on Competition and Regulation) in October 2007.

It is published under the responsibility of the Secretary General of the OECD to bring information on this topic to the attention of a wider audience.

This compilation is one of a series of publications entitled "Competition Policy Roundtables".

## **PRÉFACE**

Ce document rassemble la documentation dans la langue d'origine dans laquelle elle a été soumise, relative à une table ronde sur les Services de Taxis et Restrictions de Concurrence qui s'est tenue en octobre 2007 dans le cadre du Comité de la concurrence (Groupe de Travail No. 2 sur la Concurrence et la Réglementation).

Il est publié sous la responsabilité du Secrétaire général de l'OCDE, afin de porter à la connaissance d'un large public les éléments d'information qui ont été réunis à cette occasion.

Cette compilation fait partie de la série intitulée "Les tables rondes sur la politique de la concurrence".

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## EXECUTIVE SUMMARY

### *By the Secretariat*

In light of the written submissions, the background note and the oral discussion, the following points emerge:

**(1) *Restricting the number of taxis***

*Restrictions on entry to the taxi industry constitute an unjustified restriction on competition. Regulatory capture frequently means that these restrictions lead to large transfers from consumers to producers, economic distortions and associated deadweight losses.*

Taxis compete with a wide range of other transport options, including mini cabs, public transport and private vehicles. Substantial evidence suggests that restrictive approaches to taxi licensing taken in many countries, together with resulting upward price pressures, is progressively leading consumers to substitute away from the taxi industry. Absent a strong theoretical justification for restricting taxi numbers, this substitution is economically distorting and will lead to important welfare losses.

It is increasingly widely accepted that restricting taxi numbers constitutes an unjustifiable restriction on competition and reduces economic welfare. While a number of theoretical arguments based on externalities (notably pollution and congestion) and productivity have been advanced to justify the imposition of supply restrictions, each of these rationales is strongly contested. In sum, the economics literature provides little support on theoretical grounds for supply restrictions.

In addition, practical considerations suggest that, even if it is believed that a regulated supply has the potential to yield improved outcomes, there is little likelihood that regulators will be able to deliver such improvements reliably and consistently. There are no widely accepted models of “optimum” taxi supply to guide regulators’ decision-making. Moreover, given that determinants of taxi demand are numerous, the extent of the information required to adopt a model-based approach would be substantial. Those models that have been proposed in the literature are characterized by significant information requirements.

In the absence of a structured approach to setting taxi numbers, regulators have necessarily acted in an *ad hoc* manner. In these circumstances, there is a high risk that they will become unduly responsive to lobbying by consumer interests and act to restrict supply to levels far below free market equilibrium levels. Experience in many OECD countries that have adopted supply restrictions clearly demonstrates this dynamic. Taxi numbers relative to population numbers have tended to decline over time, often substantially. Where taxi licences are tradeable, high and rising prices are commonplace – for example, a Paris taxi licence costs €125,000, licences in Sydney and Melbourne cost A\$300,000 and A\$500,000 respectively and a New York taxi licence costs as much as US\$600,000. In each of these cities, licence prices have risen substantially in recent years. These high licence values reflect the substantial and increasing monopoly rents that can be accrued from the exploitation of increasingly scarce taxi licences. Rising licence values



represent continuing and increasing transfers from consumers to taxi licence owners as a result of the policy of supply restriction.

**(2) *Taxi reform and equity issues***

*Although entry restrictions are often justified on equity grounds there is no evidence that drivers fare better in restricted markets. On the other hand, higher prices and lower availability disproportionately affect low income consumers of taxi services.*

Reform of the taxi industry has often been opposed on grounds that it is likely to reduce the incomes of drivers, which are frequently low where they are not themselves owners of cab licences. In particular, the industry is seen to suffer cyclical decline, while the number of available taxi drivers tends to rise in economically less favourable times.

However, there is no evidence to suggest that taxi driver incomes are higher in markets with restrictive entry conditions. Rather, the monopoly rents that accrue due to these restrictions appear to be appropriated solely by licence owners. For example, Melbourne has taxi licences valued at almost A\$500,000, and driver incomes estimated at A\$8 - 14 per hour. Thus, entry restrictions appear to be an ineffective means of safeguarding driver incomes. More importantly, competition policy does not generally accept the proposition that entry to an industry should be constrained in order to protect the income position of incumbents, while there is no obvious basis for arguing that the taxi industry constitutes a special case in this regard.

By contrast, restricting entry to the taxi industry causes significant equity problems: low income groups are disproportionately users of taxi services. The impacts of entry restrictions in increasing price and reducing availability is therefore highly regressive in its consumer impact – poor consumers are hurt more by entry restrictions than wealthy ones.

**(3) *Recent reforms to taxi regulation***

*Increasing numbers of OECD countries have removed or loosened supply restrictions on taxis. The results of these reforms have been strongly positive, with reduced waiting times, increased consumer satisfaction and, in many cases, falling prices being observed.*

Reflecting the increasingly widespread recognition of the losses to economic welfare and to consumers resulting from restrictions on the supply of taxis, several OECD countries have undertaken major reforms to taxi regulation which involve the removal or substantial reduction in the extent of entry restrictions. These countries include New Zealand, Ireland, the Netherlands, Sweden and the United Kingdom.

Where taxi supply has previously been heavily restricted and these restrictions were removed, very large increases in taxi supply have been experienced. For example, in major cities in both New Zealand and Ireland, taxi numbers more than tripled following the adoption of an open entry policy. In general, the extent of entry to the industry has outstripped the levels predicted prior to deregulation where attempt to forecast actual demand were made. Moreover, these higher taxi numbers have generally been sustained in the medium term.

Post-reform evidence generally demonstrates strongly positive results measured against a range of criteria. Substantially increased taxi numbers mean customer waiting times tend to fall substantially, while customer satisfaction levels have also substantially improved. Price levels have often fallen following reform, though this has not always been the case. In some cases, static or increasing prices, post reform, may reflect regulated prices being set artificially low in

the pre-reform environment. Moreover, if prices are not regulated there is a high likelihood, even under open entry conditions, that producers will be able to exercise a degree of monopoly pricing power due to market imperfections existing, in particular, in the rank and hail markets.

Some form of price regulation should, therefore, be maintained even where reforms have led to an open entry regulatory environment. This may take the form of maximum price regulation, or may constitute lighter-handed forms of regulation. For example, since adopting major reforms in 1990, Sweden has required taxi operators to inform passengers of fares prior to commencing the journey and has adopted guidelines on means of conveying this information. Other possible forms of “light handed” fare regulation include restrictions on permitted fare structures, to facilitate consumer comparison, and requirements for prior notification of fare changes to the regulator and consumers. Price regulation arrangements may also differentiate between the rank and hail markets and the pre-booked market, given consumers’ stronger relative position in the latter.

**(4) Choosing among reform strategies**

*In highly restricted taxi markets, immediate implementation of an open entry policy is likely to be politically challenging. However, adopting staged approaches delays the achievement of reform benefits and poses major practical risks that reform will be stalled or reversed. Immediate reforms have been completed successfully in some highly restricted markets.*

Where strong supply restrictions have led to large monopoly rents accumulating, there will inevitably be strong opposition to reform proposals from incumbent licence-holders. Captive regulatory bodies are also unlikely to act as advocates of meaningful reform. Adding to the political difficulty of reform is the size of the windfall losses that incumbent license owners would bear in the event of an immediate move to an open-entry regulatory system. Arguments are often made that licence-owners should be compensated for lost licence value in the event of reforms being enacted. There is little merit to the argument that licence holders should be compensated by the taxpayer for the loss of their right to continue to extract monopoly rents. However, hardship based arguments for making some payments to incumbent licence-holders in the event of major reform are likely to prove more broadly acceptable.

A frequently proposed alternative is to adopt a staged approach to reform. Staged reform is usually advocated as a means of reducing producer opposition by spreading and attenuating the expected losses to be borne by incumbents. However, it is also promoted in some cases as a more “orderly” approach to reform which will avoid or minimize major short-term market disruptions, “overshooting” on the supply side and other, potentially significant, transitional costs.

Several models of staged reform can be identified. One approach (first used in Ireland) involves issuing additional licences to each incumbent. This tends to minimize their losses by ensuring that the remaining monopoly rents continue to accrue in their entirety to this group. This model can help make more rapid increases in numbers feasible. Alternatively, new licences can be issued by auction or ballot. In some cases, these auctions or ballots are open to all, while in other cases preference is given to employee taxi drivers and/or other groups.

While staged reform is seen as a means of making reform more politically feasible, there is much doubt as to the effectiveness of this approach: producers are likely to lobby equally strongly against staged reform, while continued lobbying is likely to lead to the halting or reversal of staged reform programs before their completion. Means of minimizing this risk include

announcing the details of the long-term reform program (e.g. the number of licences to be issued in each of the years of the program) in advance, legislating the details of the reforms and giving control of future licence issue to an independent, multi-sectoral economic regulator.

Even where such steps are taken, the risk that reform will be incomplete remains significant. If an “open entry” industry is not explicitly established as the endpoint of reform, it is likely that supply will remain restricted: in a number of cases (e.g. that of Ireland) *ex ante* estimates of the equilibrium number of taxis in an open market have been shown to fall well short of actual open-market outcomes. In Melbourne, an announced 12 year staged reform program is adding only 3% to the stock of licences each year – approximately equal to annual demand growth.

Given the significant risks entailed in adopting staged reforms, it is important to underline that the experience of countries including Ireland and New Zealand shows that immediate reforms can be implemented successfully, even where the pre-reform context is one in which supply is severely restricted and licence prices are high.

**(5) *Quantity vs. quality regulation***

*Removing entry restrictions does not imply removing quality based regulation. Indeed, supportive regulation is a precondition for fully achieving the potential benefits of adopting an open entry policy. That said, remaining regulatory arrangements must not unduly inhibit the development of innovative service offers and industry models.*

Economic regulation (embracing quantity and price restrictions) and quality regulation should be clearly distinguished. While major economic and consumer benefits can be derived from reform of economic regulation, there is a strong case for maintaining effective quality regulation in the taxi industry. Quality regulation typically embraces a range of vehicle and driver standards which seek to ensure passenger safety and minimum service standards.

Some opponents of open entry to the taxi market seek to argue that entry restrictions are essential if service quality standards are met. However, there is little theoretical or empirical support for this proposition. On the other hand, failure to ensure that quality regulation is maintained and, where needed, enhanced can significantly compromise the benefits of reform and its acceptance by consumers and the public.

That said, quality regulation must be designed carefully to ensure that it does not prevent the development of innovative services and market structures that drive many of the benefits of reform. For example, vehicle standards should not be set in ways that would unduly limit the provision of low price/low quality services that may be in demand.

## SYNTHESE

### *Par le Secrétariat*

Plusieurs points ressortent des contributions écrites, de la note de référence et des débats :

#### **(1) Restriction du nombre de taxis**

*Les restrictions concernant l'accès au marché des taxis représentent une entrave abusive à la concurrence. Le détournement de la réglementation au profit d'intérêts particuliers indique dans bien des cas que ces restrictions aboutissent à d'importants transferts du consommateur vers le fournisseur, à des distorsions économiques et, partant, à des pertes sèches.*

Les taxis sont en concurrence avec un large éventail de moyens de transport, dont les voitures avec chauffeur, les transports publics et les véhicules privés. Des éléments substantiels laissent à penser que les approches restrictives adoptées dans de nombreux pays à l'égard des licences de taxi, auxquelles s'ajoutent les tensions sur les prix en découlant, amènent progressivement les consommateurs à chercher des solutions de substitution. En l'absence de raisonnement convaincant justifiant la limitation du nombre de taxis, ce phénomène de substitution fausse le marché et entraîne des pertes de bien-être conséquentes.

Il est de plus en plus admis que ces restrictions quantitatives représentent une entrave abusive à la concurrence et pèsent sur le bien-être économique. Même si plusieurs arguments théoriques fondés sur les externalités (comme la pollution et les embouteillages) et sur la productivité ont été avancés pour justifier les restrictions de l'offre, chacun d'eux est vivement contesté. En somme, les publications économiques ne viennent guère justifier, d'un point de vue théorique, les restrictions de l'offre.

De plus, des considérations pratiques donnent à penser que même si l'on estime que la réglementation de l'offre peut être une source d'amélioration des résultats, il est peu probable que les autorités de contrôle soient en mesure d'obtenir de tels progrès de manière assurée et avec constance. Il n'existe aucun modèle d'offre « optimale » de taxis qui soit communément admis et qui puisse aider les autorités de tutelle à prendre des décisions. De plus, les déterminants de la demande de taxis étant nombreux, il faudrait réunir une somme considérable d'informations pour adopter une approche fondée sur un modèle. Les modèles proposés dans les publications se caractérisent par des besoins importants à cet égard.

En l'absence d'approche structurée de fixation du nombre de taxis, les autorités de contrôle ont nécessairement agi de manière *ad hoc*. Dans ces circonstances, elles risquent fortement d'être par trop sensibles aux activités de lobbying visant à promouvoir les intérêts des consommateurs et de ramener l'offre à un niveau nettement inférieur au niveau d'équilibre d'un marché ouvert. L'expérience de nombreux pays de l'OCDE ayant adopté des restrictions de l'offre mettent clairement cette dynamique en évidence. Le nombre de taxis rapporté à la population a eu tendance à diminuer au fil du temps, souvent de façon très nette. Lorsque les licences de taxi sont négociables, on observe couramment que les prix sont élevés et orientés à la hausse – ainsi, une licence coûte 125 000 EUR à Paris, 300 000 AUD et 500 000 AUD à Sydney et à Melbourne,

respectivement, et pas moins de 600 000 USD à New York. Dans chacune de ces villes, le prix des licences a sensiblement augmenté ces dernières années. Ces prix élevés sont la conséquence des rentes de monopole importantes et en progression qui peuvent être tirées de l'exploitation de licences de taxi de plus en plus rares. Le renchérissement des licences dénote des transferts persistants et croissants du consommateur vers le titulaire de la licence en raison de la politique de restriction de l'offre menée.

**(2) Réforme de la profession et équité**

*Bien que les limitations de l'accès à la profession soient souvent justifiées par un souci d'équité, aucun élément ne permet d'affirmer que les chauffeurs pratiquent des prix plus avantageux sur les marchés soumis à des restrictions. Par ailleurs, les consommateurs de services de taxis à faibles revenus pâtissent de façon disproportionnée de la hausse des tarifs et d'une disponibilité moins grande.*

Les réformes du secteur des taxis se sont fréquemment heurtées à une résistance au motif qu'elles risquaient de faire baisser les revenus des chauffeurs, qui sont souvent faibles lorsqu'ils ne sont pas eux-mêmes titulaires d'une licence. En particulier, on note que le secteur souffre d'un ralentissement conjoncturel, alors que le nombre des chauffeurs de taxi disponibles a tendance à progresser durant des périodes moins florissantes.

Cela étant, rien ne porte à croire que les revenus des chauffeurs sont plus élevés sur les marchés dont l'accès est réglementé. Les rentes de monopole perçues grâce à ces restrictions semblent au contraire profiter aux seuls titulaires d'une licence. À Melbourne, par exemple, une licence coûte près de 500 000 AUD et selon les estimations, les revenus des chauffeurs varient de 8 à 14 AUD par heure. Il semble donc que les restrictions de l'accès au marché ne permettent pas de garantir efficacement les revenus des chauffeurs. Fait plus important encore, il apparaît d'une manière générale que du point de vue de la politique de la concurrence, il ne soit pas concevable de devoir limiter l'accès à une profession afin de protéger les revenus des personnes en place, alors qu'aucun élément patent ne permet d'affirmer que le secteur des taxis constitue un cas particulier à cet égard.

À l'inverse, restreindre l'accès au marché suscite de graves problèmes au regard de l'équité : les consommateurs à faibles revenus utilisent plus que leur part les services de taxis. Les restrictions de l'accès à la profession, dans le sens où elles entraînent une hausse des prix et une moindre disponibilité des taxis, ont donc un caractère particulièrement régressif du point de vue des consommateurs – les usagers modestes sont davantage touchés par les restrictions de l'accès à la profession que les consommateurs fortunés.

**(3) Réformes récentes de la réglementation du secteur**

*Un nombre croissant de pays de l'OCDE ont supprimé ou assoupli les restrictions pesant sur l'offre de services de taxis. Les résultats de ces réformes ont été extrêmement positifs : diminution des temps d'attente, satisfaction accrue des consommateurs et, dans bien des cas, réduction des prix.*

Les pertes de bien-être économique et les préjudices occasionnés aux consommateurs du fait des restrictions de l'offre étant de plus en plus largement établis, plusieurs pays de l'OCDE ont engagé de profondes réformes de la réglementation applicable aux services de taxis. Il s'agit notamment de la Nouvelle-Zélande, de l'Irlande, des Pays-Bas, de la Suède et du Royaume-Uni.

Les pays qui après avoir sensiblement limité l'offre de taxis, ont supprimé ces restrictions, ont enregistré une très forte progression de l'offre. Dans les métropoles néozélandaises et irlandaises, par exemple, le nombre de taxis a été multiplié par plus de trois après l'adoption d'une politique de libre accès. La plupart du temps, le nombre de nouveaux venus a dépassé les prévisions établies avant la libéralisation par les pays qui ont tenté d'anticiper la demande réelle. De plus, cette progression du nombre de taxis s'est globalement poursuivie à moyen terme.

Les données recueillies à l'issue des réformes font généralement apparaître des résultats extrêmement positifs en fonction de plusieurs critères. La forte progression du nombre de taxis entraîne dans l'ensemble une diminution significative des temps d'attentes pour les consommateurs, parallèlement à un accroissement notable de la satisfaction des usagers. Les prix ont également reculé à la suite des réformes, bien que ce n'ait pas toujours été le cas. La stabilité ou la progression des prix observée après coup est parfois le fait d'une réglementation antérieure à la réforme, en vertu de laquelle les tarifs avaient été fixés à des niveaux artificiellement bas. De plus, lorsque les prix ne sont pas réglementés, il est fort probable que même en cas de marché ouvert, les fournisseurs soient en mesure de fixer des prix dignes d'un monopole du fait des imperfections du marché existant, notamment, pour les stations de taxis et les taxis hélés dans la rue.

Il convient donc de maintenir une certaine réglementation des tarifs, même lorsque les réformes ont abouti à une ouverture du marché. On peut alors plafonner les prix ou opter pour une formule moins stricte. Ainsi, depuis l'adoption de vastes réformes en 1990, la Suède demande aux exploitants d'informer les passagers sur les tarifs avant le début de la course et elle a adopté des lignes directrices portant sur les moyens à employer à cette fin. Pour réglementer les prix avec plus de souplesse, on peut aussi imposer des restrictions sur les structures tarifaires autorisées, faciliter les comparaisons de prix et exiger que toute modification des tarifs soit préalablement portée à la connaissance des autorités de contrôle et des consommateurs. Les dispositifs de réglementation des tarifs peuvent aussi établir une distinction entre les stations de taxis et les taxis hélés dans la rue, et les centraux téléphoniques, puisqu'en termes relatifs, les consommateurs sont davantage en position de force sur ce dernier marché.

#### **(4) *Quelle stratégie de réforme ?***

*Sur les marchés soumis à de fortes restrictions, mettre directement en œuvre une politique de libre accès risque de présenter des difficultés d'un point de vue politique. Néanmoins, en progressant par étapes, on retarde la concrétisation des avantages tirés de la réforme et sur le plan pratique, on risque fortement de devoir suspendre la réforme ou faire machine arrière. Les réformes à application immédiate ont été mises en œuvre avec succès sur certains marchés particulièrement réglementés.*

Lorsque de fortes restrictions de l'offre ont entraîné une accumulation de rentes de monopoles conséquentes, les propositions de réforme se heurteront inévitablement à une forte résistance des titulaires de licence en place. De plus, les autorités de contrôle captives sont peu susceptibles de plaider en faveur d'une réforme significative. L'ampleur des pertes exceptionnelles enregistrées par les titulaires en cas d'ouverture immédiate du marché ajoute encore à la difficulté politique du processus. On fait souvent valoir qu'il convient de compenser la baisse du prix des licences pour les titulaires dès lors que l'on introduit une réforme. L'argument selon lequel le contribuable devrait dédommager les titulaires d'une licence lorsque ceux-ci sont privés de leur droit de percevoir des rentes de monopole n'est guère recevable. Toutefois, les arguments fondés sur le préjudice subi, appelant au versement d'une indemnité aux titulaires en place en cas de réforme importante, pourraient être plus largement acceptés.

À l'inverse, on propose fréquemment de procéder par étapes, en arguant que les réformes progressives permettent d'affaiblir la résistance des fournisseurs en répartissant et en atténuant les pertes attendues pour les intervenants en place. Dans certains cas, elles sont néanmoins présentées comme une approche « moins erratique », qui évite ou minimise les perturbations profondes du marché à court terme, un éventuel « débordement » du côté de l'offre et d'autres coûts transitoires, potentiellement élevés.

On peut identifier plusieurs sortes de réforme progressive. L'une d'elles (utilisée pour la première fois par l'Irlande) consiste notamment à octroyer des licences supplémentaires à chaque titulaire, ce qui tend à minimiser leurs pertes en assurant que les rentes de monopole restantes continueront de leur revenir en intégralité. Avec ce modèle, il est possible d'accroître plus rapidement le nombre des taxis. On peut aussi accorder de nouvelles licences aux enchères ou par tirage au sort. Dans certains cas, ces enchères ou tirages au sort sont ouverts à tous, alors que dans d'autres, la préférence est donnée aux chauffeurs de taxi salariés et/ou à d'autres catégories d'intervenants.

Si on considère que procéder par étapes accroît la faisabilité politique de la réforme, l'efficacité de cette méthode reste très incertaine : il est probable que les fournisseurs tenteront avec la même véhémence d'empêcher les réformes progressives par des activités de lobbying, ce lobbying persistant risquant d'aboutir à un blocage des programmes de réforme avant leur terme ou à un retour à la situation antérieure. Pour minimiser ce risque, on peut notamment annoncer à l'avance les détails du programme mené sur le long terme (comme le nombre de licences qui seront accordées chaque année), légiférer sur les modalités de la réforme et confier le contrôle de la délivrance des futures licences à une autorité de tutelle indépendante en charge de plusieurs secteurs de l'économie.

Même en prenant de telles mesures, le risque que la réforme ne soit pas portée à son terme reste important. Faute d'établir explicitement un secteur « libre d'accès » à l'issue du processus, il est probable que l'offre restera limitée : dans plusieurs cas (dont l'Irlande), les estimations *ex ante* du niveau d'équilibre des taxis sur un marché ouvert sont ressorties nettement en deçà des résultats effectivement obtenus après la libéralisation. À Melbourne, un programme de réforme progressive prévu sur 12 ans accroît de 3 % seulement par an le nombre des licences – ce qui correspond à peu de choses près à la progression annuelle de la demande.

Compte tenu des risques substantiels inhérents à l'introduction de réformes progressives, il importe de souligner que l'expérience des pays, et notamment de l'Irlande et de la Nouvelle-Zélande, montre que les réformes immédiates peuvent aboutir, même lorsque la situation antérieure se caractérise par de fortes restrictions de l'offre et par un prix élevé des licences.

#### **(5) *Réglementation quantitative ou qualitative***

*Supprimer les restrictions de l'accès à la profession n'implique pas de renoncer à une réglementation qualitative. La mise en place d'une réglementation favorable au marché représente en effet un préalable à la concrétisation pleine et entière des avantages pouvant découler de l'adoption d'une politique de libre accès. Cela dit, les dispositions réglementaires conservées ne doivent pas entraver outre mesure le développement d'offres de services et de modèles sectoriels innovants.*

Il convient d'établir une distinction nette entre la réglementation économique (qui comprend les restrictions quantitatives et tarifaires) et la réglementation qualitative. Si la réforme de la réglementation économique peut se traduire par des avantages notables en termes économiques et

pour le consommateur, il y a d'excellentes raisons de maintenir une réglementation qualitative efficace dans le secteur des taxis. Cette réglementation correspond habituellement à un éventail de normes qui s'appliquent aux véhicules et aux chauffeurs afin d'assurer la sécurité des passagers et à des normes de service minimum.

Certains opposants à la liberté d'accès au marché des taxis font valoir que les restrictions en la matière sont déterminantes pour assurer la qualité de service voulue. Rares sont néanmoins les données théoriques et empiriques qui viennent étayer cette affirmation. En revanche, ne pas réussir à maintenir et, en cas de besoin, à renforcer la réglementation qualitative peut compromettre sérieusement la concrétisation des avantages de la réforme et l'acceptation du processus par les consommateurs et le public.

Cela dit, la réglementation qualitative doit être conçue avec soin pour ne pas empêcher le développement de services et de structures de marché innovants dont découlent bon nombre des avantages de la réforme. Ainsi, les normes applicables aux véhicules ne doivent pas être définies de façon à limiter exagérément les prestations de services à bas prix ou de faible qualité pour lesquels il peut exister une demande.





## BACKGROUND NOTE<sup>1</sup>

*By the Secretariat*

### 1. Introduction

Notwithstanding signs of an emerging trend towards significant regulatory reform in recent years, the taxi industry remains one of the most heavily regulated in the economies of most developed countries, including those with the most open and competitive economies. This heavy regulation persists despite both a preponderance of opinion in favour of deregulated entry to the industry in the economic literature and substantial evidence of major benefits accruing to consumers in those jurisdictions in which the regulation has been undertaken. The persistence of strong controls on entry reflects the effectiveness of lobbying by incumbent interests, a factor which has significant implications for the development and implementation of reform strategies.

This background paper analyses the nature of the taxi market and the issues associated with its regulation, focusing particularly on quantitative restrictions on entry. It reviews a range of literature on the subject and the experience of jurisdictions that have deregulated the industry. In particular, it highlights key issues in moving towards an efficient, consumer oriented regulatory structure in which supply restrictions are removed and the regulatory focus is on quality and safety issues and on regulation favouring the development of an efficient market.

- The restriction of taxi numbers is a welfare-reducing regulatory intervention. Limiting the number of licences is not economically justified and is an undue restriction on competition. Indeed, arguments based on “density effects” even suggest that subsidising entry could be welfare-enhancing.
- Where licence numbers are regulated, there is a high probability that controls will be managed in ways that reduce supply far below free entry levels, leading to the development of very high licence values (as much as €500,000), reflecting the existence of large monopoly rents. Consumers will experience reduced service levels and, in most cases, increased prices. Losses in economic efficiency (“deadweight losses”) also arise due to these market distortions.
- By contrast, most experience with the removal of supply restrictions indicates that substantial consumer benefits follow. Taxi numbers increase substantially, waiting times fall and fare levels are likely to decline or, at least, be broadly stable. Where post-reform problems have been identified, these are usually traceable to the adoption of incomplete or poorly designed reforms. Reflecting these realities, there is a discernible trend away from the historical situation of strong entry controls in the taxi market in most OECD countries.
- Removing entry restrictions should be the focus of regulatory reform in the taxi market, as the welfare gains from this reform are easily the largest. However, full deregulation is not desirable: given market imperfections in the rank and hail markets, some form of price regulation should be retained, even in open-entry markets. Quality regulation also continues to be required. This

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<sup>1</sup> This paper has been prepared by Rex Deighton-Smith.

includes including safety related regulation of driver and vehicle standards and conduct regulation designed to ensure minimum service quality standards, including equity of service. However, this regulation should be structured carefully so as to avoid discouraging the development of innovative market offers.

- Moving from an environment of highly restricted licence numbers to an open entry environment is politically challenging, particularly due to the large expected windfall losses of incumbents. However, legal precedents indicate that there is unlikely to be a legal obligation to compensate incumbents for their losses. Governments may choose to provide some compensation on hardship grounds. However, the case for compensating incumbents for the loss of their ability to extract monopoly rents is weak.
- The taxi industry generally demonstrates powerful lobbying skills, with regulatory capture being widespread. This strongly suggests that reform should be immediate, or at least very rapid, since staged reforms are vulnerable to being reversed by sustained lobbying, as well as substantially delaying the achievement of the benefits of reform.
- To minimise the risk of regulatory capture, taxi regulation should be undertaken by more broadly based regulatory authorities that include significant economic expertise.

## **2. Description of the taxi industry**

Taxis are small passenger vehicles providing point-to-point personal transport services. In this general context, the taxi market can be further divided into three broad categories: the rank, hail and pre-booked markets. Taxi ranks are designated places at which taxis may queue to await passengers, and vice versa. Passengers are generally expected to take the first cab at a rank. The hail market comprises situations in which consumers hail a cruising taxi on the street. In the pre-booked a market, consumers telephone for a taxi, whether for immediate dispatch or for dispatch at a later time. Taxis may also provide regular services under long-term contractual arrangements.

Different taxi markets vary substantially in terms of the relative importance of these three market segments. In general, the taxi market in densely settled cities has a high proportion of rank and hail hires, while outer suburban areas and regional towns have taxi markets dominated by pre-booked hirings. Other factors will also affect this relative split, for example the pattern of taxi usage.

Taxis are sometimes distinguished from a closely related group of services providers (typically referred to by terms such as “hire cars” or “mini cabs”) that provide point to point personal transport service exclusively in response to a booking made in advance. However, it is important to recognise that this distinction essentially exists only as a result of regulatory interventions in the market. Thus, analysis of the policy issues related to the taxi market should embrace both types of service.

### **2.1 Market failure issues**

#### **2.1.1 Pre-booked market**

Consumers in the pre-booked market are well-placed to choose between service providers, being able to inform themselves on competing pricing structures and verify availability of vehicles. Thus, the conditions for effective competition are broadly present in this market. Concerns have been raised as to the existence of network economies, with larger networks being able to offer a higher quality (i.e. shorter

average waiting time) service<sup>2</sup>. To the extent that these economies are significant, there may be negative impacts on the development of effective competition. This issue is likely to be of most concern in smaller cities and those with lower population densities.

### 2.1.2 *Street-hail market*

By contrast, consumers in the street-hail market are less well-placed. Consumers who hail taxis on the street are uncertain about the waiting time until the next taxi and, in a market in which fares are unregulated, about the relative price of the currently available taxi and any taxis that may be able to be hailed in the near future. Because waiting time is a significant element of service quality for taxis, they therefore face uncertainties as to both price and quality.

Moreover, consumers are unable to keep the first offer “in hand” pending the arrival of a second cab. In these circumstances, monopolistic pricing is possible, even in the presence of substantial numbers of producers (OECD/ECMT (2007), p 98).

### 2.1.3 *Taxi rank market*

Customers at taxi ranks may be still worse placed, if there is an expectation, or legal requirement, that they will hire the first available taxi<sup>3</sup>. If price is to be deregulated and competition to occur between taxis at ranks, any expectation that consumers engage the first available cab (i.e. that at the head of the queue) would necessarily have to be superseded. Such a change in behaviour may take considerable time to generate in practice.

### 2.1.4 *Market failure and regulation*

The information issues and constraints on consumer choice discussed above frequently give rise to arguments in favour of various forms of regulation. However, merely demonstrating the existence of market failure is insufficient to make a case for regulation. It is also necessary to describe how regulation would be implemented and make the case that it is likely to achieve superior outcomes to those generated by the market. The following sections identify broad types of taxi regulation, highlighting the use of entry regulation as being the most restrictive of free markets. It then discusses the specific rationales for intervention presented by proponents of entry regulation and reviews practical experience with the use of this form of regulation.

## 2.2 *Distinguishing types of taxi regulation*

Specific types of regulatory intervention in the taxi industry are extremely numerous. Indeed, many of these interventions are themselves the result of the need to correct distortions introduced by previous regulatory interventions.

However, a fundamental distinction is between quantity regulation, quality regulation and market conduct regulation. The welfare implications of these three basic forms of regulation are quite distinct, notwithstanding that they co-exist in most jurisdictions.

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<sup>2</sup> Another form of network economy arises because, in some cities, one phone number is the best-known for phone dispatching. Drivers may, at the margin, find it more profitable to join an existing network than to form a new one, limiting the potential for effective competition to develop between networks.

<sup>3</sup> While widespread, such arrangements are not universal. For example, in Bucharest, where prices vary from one cab to another, there is no expectation that passengers will take the taxi at the front of the rank.

### 2.2.1 *Quality regulation*

Taxi markets in all developed countries are subject to quality regulation. Quality regulation embraces a number of dimensions. Firstly, the standard of vehicles is usually regulated, with factors such as the age and type of vehicles that can be used and required maintenance standards typically being established. Secondly, driver and operator standards are generally set, embracing "fit and proper person" tests, uniform requirements and, in some cases, formal qualifications requirements, sometimes including route knowledge.

These forms of regulation are primarily concerned with ensuring the safety of passengers, while ensuring that services meet other minimum quality standards, beyond simply assuring safety, constitutes a secondary objective.

Quality regulation can potentially have important anti-competitive impacts if standards are set at unduly high levels. However, few observers would contest the need for at least basic standards in most of the areas cited above. Moreover, practical experience indicates that these forms of regulation do not usually loom large in terms of concerns over the efficiency and competitiveness of the taxi industry.

### 2.2.2 *Market conduct regulation*

At a basic level, market conduct regulation can be seen to include requirements for taxis to pick up all passengers (the "cab rank principle") and rules regarding issues such as shared hire arrangements. These issues can be considered to intersect with the category of quality regulation. Other market conduct regulation includes requirements that taxis be affiliated with a radio network, requirements in relation to ride sharing and rules regarding the assignment of licences.

### 2.2.3 *Price regulation*

Price regulation is, in many jurisdictions, a corollary of the imposition of quantity restrictions – i.e. limits on entry to the industry. Where entry is limited, price regulation limits the ability of incumbents to extract the monopoly rents otherwise available from consumers.<sup>4</sup> To this extent, price regulation can be considered as essentially distributional in nature.

However, forms of price regulation are also frequently found in open-entry taxi markets. Prices may or may not be set by the regulator. In some lighter handed models, operators are simply required to notify prices to the regulator (and, through specified mechanisms, the consumer), and may be limited in the number and/or timing of price changes. Alternatively, while prices may be able to fluctuate freely, pricing structures may be regulated so as to facilitate comparisons by consumers.

The imperative for price regulation is clearly lesser in an open-entry market, since producers, taken as a whole, have no monopoly power to exploit. The existence of forms of price regulation in these circumstances recognises the informational problems faced by consumers, particularly in the rank and hail markets, and primarily seeks to reduce the degree of information asymmetry, thus promoting market efficiency.

In some jurisdictions taxis are required to be affiliated with a radio dispatch network. Such requirements are, in most contexts, able to increase the productivity of taxis and competition in the pre-

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<sup>4</sup> Price regulation also limits the ability of incumbents to extract rents based on market power even when entry is not limited. For example, in the hail market, the first to arrive to a customer has market power because the customer does not know when the next available hail taxi would arrive.

booked market segment<sup>5</sup>. Moreover, some post-deregulation observations indicate that the great majority of entry has been focused on the rank and hail markets, with many or most new entrants being unaffiliated with networks and relatively few new radio networks being generated. Regulation in this area is therefore seen in many cases as a means of ensuring that the benefits of removing or reducing quantity restrictions are maximised.

#### 2.2.4 Quantity regulation

Many, but not all taxi markets are characterised by quantity regulation (i.e. by restrictions on the number of taxis able to be licensed). The regulator frequently has very substantial discretion over the issue of new licences, with the use of formal decision-rules being rare and legislated decision criteria frequently being open to widely differing interpretations. The experience of many jurisdictions suggests that the relative supply of taxis in markets subject to quantity regulation frequently declines over time and that regulatory capture is a major concern.

From an economic perspective, quantity regulation is the single major area of concern in terms of ensuring an efficient market for taxi services. Consequently, the next section considers the issues relating to quantity regulation in detail. However, subsequent sections consider interactions between the removal or relaxation of quantity restrictions and the use of the other forms of regulation discussed above.

### 3. The use of entry controls

Two broad strands of argument in favour of the use of controls on taxi numbers can be identified. These can be described as economic and non-economic arguments. Economic arguments in favour of restricting taxi numbers seek to identify aspects of the taxi market that are likely to produce market failures and to demonstrate the likely existence of such market failures and of regulatory arrangements which could, at least potentially, yield superior outcomes in terms of social welfare. Key issues identified in this literature are informational problems faced by consumers at taxi ranks and in the street-hail market, restricted choice, particularly at ranks, uncertainty as to alternatives and externality issues such as congestion and pollution.

Non-economic arguments in favour of entry restrictions are multi-faceted in nature and often demonstrate some overlap with economic arguments, particularly in relation to congestion and pollution issues and relation to concerns over potentially distorting cross-modal competition. Other concerns with an open entry environment raised by non-economic commentators include the stability of the industry, the incomes of producers, safety and service quality issues.

While arguments against free entry to the industry come from both economists and non-economists, it is clear that the majority of economic opinion favours open entry to the industry. This is demonstrated, notably, in the results of a recent survey of the economic literature in relation to taxi deregulation (Moore & Balaker, 2006). Of 28 articles identified, 19 conclude that deregulation is beneficial, two conclude that the results are mixed and seven conclude that deregulation is harmful overall. Moreover, the authors argue that, taken as a whole, the literature in favour of deregulation is of higher quality:

*"... the literature concluding that taxi deregulation is net beneficial is the richer literature, with articles from each approach to the issue<sup>6</sup>. The literature concluding the taxi deregulation is net*

<sup>5</sup> Note that "network effects" have been identified in the pre-booked market, indicating that there are economies of scale across a broad range of network sizes. (See NCC (2002) pp 5-18 – 5-19)

<sup>6</sup> The authors classified the articles reviewed as being either "model building theoretical studies", "plain talk theoretical studies" or "empirical studies."

*harmful is mostly model building. ... those articles derive their results from strong assumptions about information and transactions costs. The literature finding net benefits often uses a richer set of assumptions that include mechanisms for overcoming information and transaction costs challenges." (Moore & Balaker (2006), p 117).*

The authors also discuss the views on deregulation contained in a number of economic articles that are not predominantly devoted to this topic and conclude that, when this material is taken into account, "a strong majority support deregulation". (ibid, p 126). Moreover, their analysis of the literature that concludes deregulation is not beneficial leads them to the conclusion that the partial nature of deregulatory reforms had militated against the potential benefits being achieved in many cases ,(ibid, p 115) while the role of regulation that is pro-competitive and supportive of efficient markets is also little discussed in this literature.

The following provides a critical summary of the main arguments against free entry to the taxi industry.

### **3.1 Arguments against free entry**

#### **3.1.1 Productivity arguments (a)**

A major concern commonly cited by opponents of free entry is that the average productivity of resources devoted to provision of taxi services is said to fall as taxi numbers rise. This argument rests on the obvious fact that the average number of paid kilometres travelled per taxi will tend to fall as taxi numbers rise, while the ratio of paid to unpaid (cruising) kilometres will generally also fall.

More formal presentations of this argument are based on the theory of monopolistic competition, suggesting that where fixed costs exist, "excess entry" will occur in an open market setting, increasing the average cost of service provision. However, OECD/EMCT (2007, p 157) highlights problems with this argument for entry controls as follows:

*The case for regulating entry is based on the more general view that fixed costs and, as a consequence, average costs that decrease as demand increases, imply that there is "excess capacity": exit decisions are held to be determined by the fact that investment costs are sunk. To reduce the number of suppliers by regulating entry would lead to higher capacity utilisation and thus to lower costs to the consumer. On a theoretical level, this argument is incomplete insofar as it neglects crowding of an individual supplier and resulting increased costs of providing taxi services. Empirical studies have shown that individual taxi drivers incur low fixed costs, and because their vehicles can be sold on secondary markets for other uses, the sunk costs are, in general, unimportant.*

The low level of sunk costs implies that this "excess entry" problem is unlikely to be significant in practice. Moreover, other analyses have highlighted the inter-dependence of waiting times and demand in the industry. That is, the value of the taxi service to the consumer increases as waiting times fall. Thus "excess capacity" has a positive value and increased supply will bring forth additional demand. The existence of these "economics of density" means that increasing fleet numbers can, within a certain range, benefit both producers and consumers. This has led to calls for taxi services to be subsidised (e.g. by Arnott (1996)) in order to achieve optimum density levels since, from the point of view of consumers,

excess capacity entrains the positive externality of reduced waiting times<sup>7</sup>. (Liston-Heyes & Heyes, in OECD/ECMT (2007), pp 100-103) – a directly converse prescription to the above argument for limiting entry.

While this argument in favour of subsidies is theoretically valid, practical risks exist. In particular, care must be taken to ensure that incentive structures are appropriately designed so that subsidies do not simply lead to cost (e.g. wage) increases, rather than bringing forth additional supply. Additionally, given the demonstrated ability of the taxi industry to capture regulatory systems in a wide variety of examples, concerns must also exist that, under such a model, lobbying would produce unduly large subsidies and excess entry.

### 3.1.2 *Productivity arguments (b)*

A second productivity based argument advanced *inter alia* by Schreiber (1975 – cited in Ho (1993))<sup>8</sup> is that increased taxi numbers will lead to “diversion” of demand from other, more “economical” modes of public transport. This view is based on the observation that the price of public transport rides usually exceeds their marginal cost and an argument that, unless the price of both taxi rides and public transport exceeds marginal cost by the same amount, there will be a distorting incentive for consumers to choose taxis.

However, arguing for restricting taxi numbers and increasing fares as a policy response appears to be an indirect and inefficient response to the observed policy problem of inefficient mass-transit pricing.

### 3.1.3 *Impact on congestion/pollution*

Opponents of free entry to the taxi industry almost invariably cite pollution and congestion effects as constituting important negative externalities associated with taxi operations and argue that the presence of these externalities means that the free market equilibrium number of taxis would be greater than the optimum. In this view, the primary impact of increased taxi numbers on congestion is that greater numbers of taxis spend more time cruising for custom, thus adding to congestion.

However, others have promoted increased taxi numbers as a means of *reducing* congestion, arguing that that increased taxi density, by ensuring that taxis are available with short waiting times, may discourage private car use in urban centres and so have a positive effect in reducing congestion and pollution (Liston-Heyes & Heyes (OECD/ECMT (2007) p 103)). Reducing congestion was cited as an objective of the 2000 Dutch taxi reform legislation which sought to ease entry to the industry and increase taxi use.

Interestingly, arguments to the effect that increasing taxi numbers will add to congestion appear rarely or never to be presented in numerical terms. Such a presentation tends to highlight their marginal nature: for example, Melbourne (Australia) has approximately 2 million private motor vehicles registered, and

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<sup>7</sup> A similar argument has also been posited in the context of route bus services. Known as the “Mohring effect”, this argument states that higher demand leads to increased service frequency, so lowering average (or expected) waiting times for all users. From the point of view of users, this reduction in waiting times is positive externality, justifying a subsidy. That is, reducing fares (by increasing the government subsidy for bus services) will induce the required increase in demand to move the market from the equilibrium (without intervention) outcome to the optimal outcome.

<sup>8</sup> Schreiber, in common with Ho, also advocates that the state should capture the economic rent associated with limiting taxi licence numbers by imposing an annual fee equal to the value of this rent on each licence.



approximately 3200 taxis. This implies that a trebling of Melbourne taxi numbers (which an open entry policy would be likely to bring about) would add approximately 6400 vehicles to the total Melbourne fleet, or approximately 0.3% of the current total. Even if these taxis were assumed to cover 10 times the average distance of a private motor vehicle, this would imply only a 3% increase in gross vehicle kilometres travelled<sup>9</sup>. To the extent that increasing taxi numbers and density reduce private vehicle trips, this gross increase will clearly be offset, indicating that the net impact – in whichever direction – is likely to be quite small.

More fundamentally, congestion and pollution are negative externalities associated with all motor vehicle use, rather than being in any specific sense associated with taxi use. Consequently, appropriate policy responses to these externalities should embrace the entire vehicle fleet, rather than targeting only one small sector, if they are not to be distortionary in impact. Moreover, to the extent that these concerns relate to specific areas such as airports, other, lighter handed regulatory responses are also feasible.

The above suggests that arguments regarding impacts on congestion and pollution are of little relevance to policy-making in relation to taxis. Notably, however, if this variable is removed from consideration, much of the theoretical rationale for restricting taxi supply apparently disappears.

#### 3.1.4 *Distributional arguments*

Opponents of free entry policies frequently cite concern for the welfare of taxi drivers among their arguments in favour of restrictions. They argue that, while demand for taxis services is strongly cyclical, the supply of taxi services in a free entry market is strongly counter cyclical. The latter observation reflects the fact that barriers to entry are low, while taxi driving requires few skills. Thus, and for long-term taxi drivers, the significant downturn in their earnings which would, in any case, occurred during an economic downturn is exacerbated by new entry to the industry from among the unemployed.

Again, such an argument could be applied to any number of industries that are characterised by free entry and low labour skill requirements. In general terms, market economies reject the proposition that entry to an occupation should be restricted in order to preserve the income position of incumbent labourers. The suggestion that the taxi industry experiences unusually heavy cyclical downturns in demand does not obviously provide a strong basis for departing from this view.

Moreover, observation of markets with restricted entry suggests that driver incomes in such markets is unlikely to be higher – and may indeed be lower – than in open entry markets (NCC (2002)). The relative lack of success of entry limits in protecting the incomes of incumbents in the long-run stems from their tendency to give rise to unsustainable prices and/or innovations that create competition in related markets<sup>10</sup>.

#### 3.1.5 *Impacts on service quality*

Open entry to the taxi market is also argued, by many opponents, to lead to reduced standards of taxi services, expressed both in terms of declining standards of vehicles and vehicle maintenance and in taxi drivers who may lack geographical knowledge and/or linguistic skills, or be of poor character. This argument has at least two, related strands.

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<sup>9</sup> That said, these arguments sometimes highlight specific impacts at airports and other points of particularly high taxi demand

<sup>10</sup> For example, where entry to the taxi market is heavily regulated, a strong parallel market in hire cars (hackney carriages) often develops.

In its simpler form, this argument states that reduced levels of vehicle utilisation lead reduced revenues and an inability to fund a high-quality service. In its more sophisticated form, the argument is presented in terms of the need to encourage "stability" in the industry. Stability is seen as a pre-requisite for the provision of high-quality taxi services. In this view, the consumer benefits from the existence of a taxi industry that is characterised by a predominance of long-term players who, if allowed to maintain "adequate" rate of return will provide a more efficient and higher quality service. By contrast, frequent entry by those with a short-term perspective will supposedly undermine the ability of longer-term players to provide a higher quality service, even though this is said to be desired by consumers.

This latter formulation of the argument provides little explanation of why "opportunistic" entrants should be less inclined to provide a quality service if this does, indeed, respond to consumer demand.

A more fundamental difficulty with this argument is that it fails to recognise that quantity and quality aspects of taxi regulation are separable, and that removing quantity restrictions does not imply that the regulators must or should vacate the field in relation to service quality issues. Indeed, much experience suggests that there is at least as much need for quality regulation in a restricted entry industry and is in an open entry industry. For example, some analyses of the experience of some US cities with deregulation have argued that the loosening of regulatory requirements in relation to quality at the same time as entry restrictions were loosened was often responsible for observed negative outcomes (NCC (2002), p 5-3). From a theoretical viewpoint, the restrictions on competition that inevitably follow from restricting entry imply that there will be less incentive to provide a high-quality service in a restricted entry industry.

### 3.1.6 *Summary*

In general, proponents of entry restrictions appear to be substantially more sensitive to concerns about short-term oversupply and low income levels arising (particularly immediately after deregulation) in open entry markets than they are about the observation of enduring problems of higher fares and long waiting times in restricted entry markets. Many of these arguments are presented in a manner that suggests a failure to take a welfare maximising (or benefit/cost based) perspective on the policy issue, with the likely costs of restricting entry apparently being heavily discounted.

### 3.2 *Arguments against entry controls*

The previous discussion indicates that arguments in favour of limiting entry to the taxi industry are strongly contested at a theoretical level and that this position is a minority one in the economic literature at least, although possibly enjoying better support among other disciplines. However, even if the theoretical case that entry restrictions are potentially capable of yielding welfare gains is accepted, this is insufficient to justify regulatory intervention of this type. As Liston-Heyes and Heyes note (OECD/ECMT (2007)), the economic perspective is one in which the opponents of free entry to an industry have the onus of proving their case for departing from the general presumption of freedom to trade. In the current context, this implies establishing that the adoption of regulated entry controls is likely, systematically to lead to outcomes that more closely approach the optimum than would free entry conditions. This additional requirement simply reflects the consensus – even among those who favour some degree of supply restrictions – that too great a degree of supply restriction will be welfare reducing

Three substantial concerns can be identified in this regard: whether the "optimal" level of supply of taxi services can be reliably identified, whether sufficient information is available and can be processed by regulatory agencies to enable the model to be employed and whether, once an "optimum" level of entry is determined, this will reliably be translated into policy action. Each of these issues is considered in turn.

### 3.2.1 *Modelling optimal taxi supply*

As discussed in the following section, objective decision rules are rarely used by regulators in reaching decisions on the quantity of taxis that will be allowed to operate. Where no explicit decision rule is used, there is no reason to believe that the regulated number of taxis will coincide with the optimum level of supply other than by accident. However, the broader question is whether models exist that are capable of accurately estimating optimum levels of supply. A small number of authors have attempted to develop such objective rules, but review of these models suggests that they are of limited practical utility. Three models can be briefly considered:

Schaller (2005) models taxi demand by conducting regression analysis on seven variables and concludes that the three major factors determining taxi demand are the number of workers commuting by subway, the number of households with no private vehicles and the number of airport taxi trips. Schaller argues that:

*The predicted number of cabs closely matches the actual number in cities that, based on separate information, appear to have an appropriate number of cabs. (Schaller (2005) p 73).[emphasis added]*

However, having observed that regulators do not generally follow explicit rules to determine taxi numbers, Schaller gives no explanation of how regulators in a significant number of the (restricted entry) cities studied have managed to ensure that actual taxi numbers accord with the required numbers predicted by the model. Moreover, if a substantial proportion of regulators are able to arrive at the “correct” number of taxis in the absence of a rational model, the question of whether such a model is required presumably arises.

Schaller provides no detail on what separate information was used to determine which cities were judged as having “an appropriate number of cabs” and which were judged to have “undersupply” or “oversupply”. Arguably, the “appropriate” number of cabs may have been defined in a way that would maximise the apparent predictive power of the model.

Schaller also states that both the group of cities for which the model’s predictions tally well with observed reality and the group for which it does not include both regulated entry and open-entry cities. This, in itself, would appear to undermine his case for regulating entry. Moreover, it can be argued that open-entry cities with an “oversupply” of cabs have presumably been observed in a disequilibrium state and are subject to market mechanisms which will enforce supply adjustments. By contrast, restricted entry cities with an undersupply of cabs are subject to no such self-correcting mechanism. In sum, the Schaller model and the testing of it he reports appear to provide very little support for the use of supply restrictions and even less for the use of his particular model.

Ho (1993) has proposed a more formal model for determining the appropriate number of cabs, arguing that using an explicit decision rule will can “enhance the likelihood of successful regulation” by reducing the prospects of regulatory capture and, thus, the extent of “unproductive rent-seeking behaviour”. Ho’s model is based on:

*“...linking the different components of the taxi fare to economic costs and the joint determination of the per-trip fixed charge component with the annual licence fee of the taxi.”*

Ho argues that setting fare levels and taxi numbers at their optimum levels will generally lead to an economic rent being earned by taxi licence holders. The government should capture this rent by selling the calculated optimum number of annual licences to operate at the calculated optimum licence fee. The

optimum fare is also set annually and must be known by potential purchasers of the annual licence to operate.

Underlying Ho's assumption that an economic rent will usually be earned by each taxi when numbers and fares are set at "optimum" levels determined is the inclusion of an externality representing impacts on congestion and pollution of the cruising of unoccupied taxis. Thus, while increasing the number of taxis tends to increase the value of taxi services by reducing waiting times, it simultaneously reduces the value of taxi services by increasing congestion and pollution.

Ho does not test his model using specific data, thus providing no basis for assessing what prescriptions it yields in practice. His model would, in theory, provide a mechanism for reducing the potential of regulatory capture to lead to "undue" supply restrictions to some degree. That said, strong lobbying to adopt high (negative) coefficients for the congestion and pollution variables in the model would have the effect of reducing the authorised supply of cabs. In this event, economic rents may still be able to be captured by the industry if licences are not distributed as per Ho's recommendation or if the prices adopted for the annual licences are set too low.

Moreover, this model is subject to the basic criticism of using congestion and pollution factors as a basis for restricting supply, set out in Section 3.1. That is, a preferable approach is to allow free entry to the taxi industry, while taxing all vehicles to internalise these externalities.

Yang et al (2003) provides an alternative model which shows that, in a market in which fares and entry are both unregulated, the social optimum (defined as the point at which total (producer plus consumer) surplus is maximised) occurs at a point at which industry profits are negative (since revenue exactly covers the cost of occupied taxi miles, but leaves a loss equal to unoccupied taxi miles). Thus, their model differs from the two described above in suggesting that the free entry solution will provide too few cabs.

The authors go on to posit a "second best" solution, based on applying a "zero minimum profit" constraint, without acknowledging that his "first best" result apparently provides support to the contention that taxi services should be subsidised in order to ensure optimum outcomes are achieved<sup>11</sup>.

In sum, two of the three models above effectively argue for entry to be restricted below free market levels while the third argues, implicitly at least, for subsidies to be provided. Significant methodological concerns exist with both the former two models. These factors and the high probability of regulatory capture resulting where entry controls are implemented suggests that the probability that any regime of entry controls will improve on a free entry outcome is minimal in practical terms, even if such an improvement is regarded as theoretically plausible. Thus, the free entry solution should be accepted on "second best" grounds, even by those who do not accept that it constitutes a first-best solution.

### 3.2.2 *Informational problems*

Much of the literature on taxi regulation highlights the informational problems facing regulators and the general absence of objective rules for regulators to follow in making decisions on taxi numbers. Review of the seven variables analysed by Schaller, cited above, is indicative of the range of data likely to be required for sound decision-making, while additional variables of probable relevance can easily be suggested, such as income levels and policies on drink driving. Indeed, Schaller himself identified several

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<sup>11</sup> That is, a theoretical first best equilibrium position involving negative industry profits may be achievable in practice if an appropriately designed subsidy regime can be implemented that would offset the negative profit outcome without distorting the incentives facing producers or consumers.

other logical candidates for testing as independent variables, including parking cost or availability, waiting time to obtain a taxi, taxi service quality, demand from programs for seniors and disabled persons, and sedan ridership, but noted that these data were unavailable.

Moreover, whatever data are used must be constantly updated and reviewed so that supply decisions can be adjusted frequently in order to approximate the theoretical optimum over time. This process is clearly resource intensive and, consequently, likely to be performed poorly and irregularly in practice. Beesley and Glaister (1983) argue that:

*"In light of the complex reasoning involved, a natural question arises about the feasibility of improving welfare by regulatory action. Regulators are dependent on restricted information." (cited in Moore & Balaker (2006))*

Schaller, in the course of putting forward his decision-making model, highlights the unsatisfactory nature of the rules used in practice by regulators to set taxi numbers in jurisdictions in which they are subject to regulatory control:

*Various methods are used in U.S. cities and counties to set the number of taxi licenses. The simplest (and most arbitrary) method is to freeze the number of cabs in operation at the time the decision is made—a policy adopted in Boston, Chicago, New York, and other major cities during the 1930s. Another common approach is to require taxicab companies to show the "public convenience and necessity" (PCN) of increasing the size of the industry. Sometimes the PCN standard is married to a periodic review that may produce regular expansion of the industry in accord with growing demand. A related approach is to set a ratio between the number of cabs and an index based on population, taxi trip volumes, or other factors. (2005, p 64)*

Clearly, a seven-decade freeze on taxi numbers is about the poorest imaginable decision rule, and one that will almost certainly be welfare reducing. Similarly, PCN rules provide little practical guidance for decision-makers, with the resulting wide discretion likely to lead to substantial scope for regulatory capture, for the reasons noted above. Periodic reviews are hardly likely spontaneously to "produce regular expansion of the industry in accord with growing demand", with the outcome being determined essentially by the terms of reference provided and methodologies used.

A partial explanation for the absence of sound decision-rules for regulators to follow in this regard is that many of the regulatory systems that, in practice, restrict the supply of taxis do not explicitly acknowledge supply restriction in pursuit of some optimum capacity level as a restriction<sup>12</sup>. Rather, legislation initially intended only to ensure that entrants meet quality standards has been used as a means of enforcing supply restrictions as a result of regulatory capture. In these circumstances, there is arguably a lesser possibility of explicit, rational decision-rules being adopted.

### 3.2.3 *Implementing optimal supply levels in practice*

Even if regulators were able to determine objectively the optimum level of supply of taxi services, significant uncertainty remains as to whether this level of supply will be achieved in practice. A fundamental concern is that the act of setting supply through conscious regulatory choices, rather than allowing it to be determined via market mechanisms, inevitably raises the prospect of regulatory capture intervening.

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<sup>12</sup> This issue is considered further below.

Regulation of the taxi industry necessarily entails a high risk of capture, for several reasons. First, capture is generally considered to be most likely in circumstances in which the losers from poor regulatory decisions are large in number but each incur only relatively small costs (especially if these are not highly visible), while the winners are a small and cohesive group with common interests who each gain very substantially from regulation. This is clearly the case in relation to the taxi industry. Consumers are generally unlikely to lobby regulators for lower fares or increased taxi numbers, particularly if this group is largely composed of expense account funded business travellers and low income (carless) households. In this situation, regulators are likely to accede, perhaps in good faith, to strong pressure from industry groups for higher fares and restrictive entry policies.

Second, regulatory arrangements in many jurisdictions consist of single purpose agencies that deal specifically with taxi regulation. This is also widely considered as a risk factor for regulatory capture (OECD (2002), p 97).

Third, it is widely agreed that the informational requirements for efficient regulation of the taxi industry are substantial, particularly in relation to the turnover of the industry. Regulators are likely to be unwilling and/or unable to invest the resources necessary to gather the required information for efficient regulation, while undertaking the required analysis may also be highly challenging. Implementation issues, particularly in relation to small operators, add a further dimension of challenge. In such circumstances, alternative approaches to regulatory decision-making are likely, including basing decisions on what is least controversial politically. The taxi industry is prone to be politically active, hence potentially bringing further pressure to bear on administrative decision-makers. (OECD/ECMT (2007), p 104).

For all of the above reasons, there is a strong *a priori* supposition that a regime of entry restrictions will be subject to regulatory capture, with regulatory discretion expected to be exercised in the direction of slower (or zero) supply growth. If this is the case, then the imposition of supply restrictions provides a powerful mechanism by which the industry is able to obtain its objectives through regulatory means. Even if it is accepted that there is some optimum level of restriction on supply, under conditions of regulatory capture, the extent of supply restrictions imposed by regulators will systematically tend to be too great and therefore very likely to decrease, rather than enhance welfare vis-à-vis an open entry alternative. The following section of this paper provides empirical evidence supporting the existence in practice of these expected regulatory dynamics.

Given the regulatory dynamics suggested above, the use of a formal model, or set of decision criteria, for determining taxi numbers has a potentially significant benefit in that, by reducing regulatory discretions, it can similarly reduce the scope for regulatory capture. However, while such models clarify what information is required and set out how it is to be analysed, the fact that substantial data collection and analysis will still be required constitutes a significant remaining impediment to the prospect of achieving optimal supply decisions over time.

#### 3.2.4 *Managing supply restrictions – an example of regulatory capture?*

The question of how supply restrictions are managed in practice has significant bearing on the issue of regulatory capture. Significant attention is given in the taxi regulation literature to the question of how supply restrictions should be managed, if they are to be implemented. Some argue that the means of allocation of taxi licences in a market characterised by supply restrictions will be a significant determinant of overall market performance.

The majority of taxi markets characterised by supply restrictions appear to use perpetual licences to operate as the fundamental mechanism for determining who is able to operate in the market. Over the past

20 years, in particular, many jurisdictions have moved to make these perpetual operating licences freely transferable. This policy change can be seen as generally consistent with economic theory, which advocates that enabling a productive input to be freely traded will ensure that it is allocated to its highest value usage.

However, several commentators have highlighted significant problems arising as a result of freely tradable taxi licences and, in some cases, have advocated that licences should no longer be a tradable good. One major concern is that, when combined with continuation of a very restrictive approach to the issue of new licences, the development of a free market in taxi licences has led to them acquiring very substantial capital values. These high capital values imply that there will be very substantial vested interests opposing any future reform of taxi regulation, while attempts to facilitate reform by providing compensation to incumbents become prohibitively expensive.

Considered alternatively, if regulated supply restrictions are to create monopoly rents in the taxi industry, the government should seek to capture these rents itself, rather than allowing them to accrue as a windfall gains to incumbents. As noted above, commentators including Schreiber (1975) and Ho (1993) argue that this can be achieved by selling annual rights to operate a taxi, rather than perpetual licences, with the price of these annual rights to be determined in accordance with calculations of the expected economic rent accruing from the efficient exploitation of an annual permit.

From the viewpoint of capture theory, an allocation mechanism which sees available economic rents retained by government, rather than accruing to incumbents as windfall gains, will greatly reduce the incentive to lobby for tighter supply restrictions, while also avoiding producing a situation in which governments may hesitate to remove or reduce supply restrictions in the future due to concern over generating windfall losses to incumbents. That such mechanisms are rarely used in practice may, conversely, be seen as further evidence of the high probability that any attempts to regulate taxi supply are likely to be fatally undermined by regulatory capture.

### *3.2.5 Additional costs of restricting entry*

The preceding sections provide strong arguments against regulating taxi supply on both theoretical and practical grounds. However, an additional set of potential negative impacts of regulating supply must also be highlighted. In particular, economics generally argues that restricting entry to a market will reduce the intensity of rivalry within the market and thereby reduce innovation in the industry and the development of new products to better serve consumer demands. Jurisdictions that regulate entry also clearly tend to more extensively regulate market conduct than those with free entry, further exacerbating this general tendency.

Expanding the analysis beyond the confines of the taxi industry itself, some commentators have argued that the resulting reductions in the ability of taxi providers as a group to respond to consumer demand will have a strong, a secondary impact of encouraging consumer substitution away from the taxi industry and towards other modes of transport, including private hire cars (i.e. hackney carriages), other forms of public transport (i.e. trains, trams and buses) and private vehicles.

To the extent that the substitution derives from the impact of entry restrictions in distorting the taxi market, this substitution effect will itself be distortionary and welfare reducing. In Australia, the National Competition Council has cited quantitative evidence of substantial declines in the market share of the taxi industry within the field of transport services. For example, in Melbourne, annual taxi trips declined by 8.5% over the 15 years to 1998, in a context in which train trips increased 30% and private vehicle ownership also rose strongly. In Perth, business demand for taxis fell more than two thirds over the decade of the 1990s. The NCC attributed these declines in taxi use to strong entry restrictions maintained over an

extended period and concluded that the substitution observed was likely to be welfare-reducing (NCC (2002), pp 5-7 – 5-8).

#### 4. Empirical evidence of the impacts of regulation and deregulation

The preceding sections have discussed the issue of taxi regulation at a largely theoretical level. The following supplements this discussion with a review of empirical evidence on the performance of taxi regulation in a range of jurisdictions and evidence in relation to the impacts of deregulatory initiatives in a range of jurisdictions. A fundamental issue is that of whether regulation of entry to the industry is likely to be subject to capture. The above has argued from first principles that the regulation of the taxi industry can be expected to demonstrate high levels of “regulatory capture”. The following adduces evidence consistent with capture in a wide range of jurisdictions, although it is notable that some jurisdictions which have significant histories of supply constraints continue to have relatively low licence values, indicating limited degrees of supply restriction.

##### 4.1 *Legislative objectives and practical application*

A notable aspect of legislation establishing licensing systems and giving discretion to Ministers as to whether to issue licences is that it is not usually explicitly stated that the purpose of creating such discretions is to limit the supply of taxis. More often, the discretion is created as a means of ensuring that applicants to enter the industry meet legislated quality criteria.

This aspect of the legislation was central to the legal challenge which ultimately led to the deregulation of the Irish taxi industry, since the courts ruled that, in circumstances in which authority was not clearly given to the minister to control overall taxi numbers, the exercise of legislative discretions over licence issue in ways that had this effect were *ultra vires*. In *Humphrey v Minister for Environment and Local Government* (2000), the court stated:

*... the Minister, in restricting the numbers for reasons unrelated to qualitative standards of the vehicles and of drivers has fettered the exercise of the discretion conferred upon him by Section 82 of the 1961 Act. A quantitative restriction not alone affects the rights of citizens to work in an industry for which they may be qualified but it also manifestly affects the right of the public to the services of taxis and, indeed, restricts the development of the taxi industry itself.*

*Regulations which restrict the number of public hire vehicles contradict the very concept of public service. It is, of course, open to the relevant authority to insist on quality as the base or threshold requirement in relation to a vehicle license as well as a driver's license. The 1961 Act does not contemplate the restriction of numbers in order to enforce standards. Moreover, there would appear not to be any criteria in the Act, nor in the regulations, by which a determination should be made on the number of new licenses to be granted.*

The reasoning in this decision is potentially applicable to all legislation which, while providing a discretion on a Minister or other officer to reject licence applications, does not explicitly authorise the use of this discretion for the purpose of restricting overall licence numbers. For example, review of the legislation governing the issue of taxi licences in Australian capital cities indicates that there is, in common with the previous Irish legislation, no explicitly avowed intent to limit numbers *per se*<sup>13</sup>.

<sup>13</sup> See, for example, Transport Act 1983 (esp. S 143). Parliament of Victoria. [www.parliament.vic.gov.au](http://www.parliament.vic.gov.au). At the margin, requirements to have regard to the interests of existing producers and to consider the need for the proposed additional taxi service could be regarded as being intended to limit numbers to some extent.



Thus, it is arguable that the legislative basis for many existing schemes under which entry to the taxi industry is restricted would be found to be of doubtful legitimacy if tested. From the point of view of regulatory capture, the use of legislation which does not explicitly favour supply restrictions to reduce taxi numbers to far below free market equilibrium levels provides strong evidence in favour of a regulatory capture hypothesis.

#### 4.2 *Time series data on supply restrictions*

The empirical evidence indicates a strong tendency for regulation limiting entry, once applied, to be administered over time in a way that tends progressively to increase the effective degree of supply restriction (i.e. the amount by which the supply of taxis falls short of the notional free market equilibrium level). Clearly such trends are consistent with a capture hypothesis.

This progressively increasing relative shortfall is demonstrated both in terms of declining numbers of taxis per unit of population and, most starkly, in increasing licence values in those jurisdictions in which taxi licences are tradeable. Since licences have no intrinsic value, their exchange value wholly represents the capitalised value of the expected stream of monopoly rents that can be derived from their exploitation.

For example, the evidence from Australia demonstrates declines in the number of taxis per unit of the population over several decades in a number of capital cities. In Brisbane, the number of taxis per 10,000 population more than halved, from 19.8 in 1960 to 9.8 in 1999. In Melbourne, the number declined from 12.3 in 1951 to 9.6 in 1995 (NCC (2002), p 5-11). Moreover, the NCC has observed that this relative decline in numbers has occurred in circumstances in which per capita demand for taxis services is likely to have increased, due to factors such as substantially increasing tourist numbers and significant increases in per capita income.

The decline in the relative number of taxis in Australia has been matched by the sustained increases in taxi licence prices. In 1999, the Productivity Commission found that there had been substantial real increases in taxi licence prices in all Australian capitals during the 1990s (Productivity Commission 1999, p 15). A government commissioned fare review (Essential Services Commission (2005), pp 40-42) found that Melbourne taxi licences had increased in value by 76 per cent in real terms in the 15 years to 2004. This increase was underpinned both by near-zero releases of new licences by the regulator over the period and by the fact that regulated fares increased by 16 per cent in real terms<sup>14</sup>. Moreover, despite the government announcing a policy of gradually reducing licence prices in 2002 (ibid, p 14), licence prices rose a further 29% in real terms between end-2004 and mid-2007<sup>15</sup>.

Similarly, Barrett (2003, p35) shows that, in the 20 years prior to the deregulation of the Irish taxi industry, licence values in Dublin had increased from £3,500 to £90,000, a 25 fold increase. This reflects the fact that the number of licences increased only once (by 7.6%) in the 20 years to 1998 (Fingleton et al, 1998). In New York, the number of taxi medallions is almost 1,400 fewer than in 1937 (Moore & Balaker, p 111, citing Markowitz (2004)), leading to medallion prices reaching \$250,000 in 2000 (OECD 2000) \$379,000 in 2005 (Schaller (2006), p 38) and \$600,000 in 2007<sup>16</sup>. Schaller (2005, p 64) notes that taxi licence numbers have also remained static since restrictions were imposed in the 1930s “*in Boston, Chicago...and other major cities*”.

<sup>14</sup> Fares increased by 31% in real terms between 1987 and 2000, but the absence of further adjustments over the next five years meant that they stood at 16% higher than their 1987 levels by 2005.

<sup>15</sup> See [www.bsx.com.au](http://www.bsx.com.au) for Victorian licence value data.

<sup>16</sup> *Taxi Medallions Fetch a Record \$600,000 each*. New York Sun, May 30, 2007 (citing Bloomberg News).

Ho (1993) reports that average prices for Hong Kong taxi medallions increased from approximately HK\$200,000 in 1980 to HK\$1.5 million in 1987. In Paris, taxi licences sell for between €100,000 and €125,000 (OECD/ECMT (2007), p 121), up from US\$46,000 in 1990 (OECD(2000), p 12), despite the existence of a parallel, regulated mechanism for the issue of licences free of charge.

In economic terms, the substantial supply constraints which these very high taxi licence values reflect raise both equity and efficiency issues. The high cost of purchasing a taxi licence inevitably substantially increases the operating cost of a taxi cab, since a commercial rate of return must be earned on this capital cost. Similarly, if a licence is leased, the lease payments substantially increase total outgoings: for example, it was estimated that the cost of lease payments totalled approximately one sixth of the total cost of running a cab in Melbourne in 2004 (ESC (2005), p 38).

These additional costs inevitably result in higher prices for taxi services<sup>17</sup> and lower taxi ridership (an effect which is reflected in the widely observed decline in the market share of taxis). From an economic efficiency standpoint, this distortionary increase in taxi prices leads to an inefficiently low rate of taxi use and a consequent deadweight loss in economic welfare. From an equity viewpoint, higher prices due to supply restrictions lead to substantial transfers from consumers to producers. This is of particular concern given the widespread observation that lower income consumers spend a higher proportion of their total income on taxi services.

The size of these transfers and deadweight losses is substantial: Moore & Balaker (2006, p 111) cite an early 1980s estimate of total monopoly rents in New York of \$590 million (in 1980 dollars). In 1999, the costs of supply restrictions in Melbourne, Australia were estimated at \$72 million per annum<sup>18</sup>, while licence values have virtually doubled since that time and the authors of the estimate point out that these costs rise exponentially with licence prices (NCC (2002), p 2-4).

The strong tendency demonstrated above towards increasing degrees of supply restriction being applied over time in jurisdictions with regulated entry is usually attributed in the literature to strong and effective lobbying from the relatively small and highly cohesive group of the incumbent taxi licence holders. The frequent adoption of sector specific licensing authorities also increases the probability of regulatory capture occurring and enduring over time.

These empirical observations of increasing degrees of supply restriction suggest strongly that, even if credence is given to the theoretical arguments in favour of restricting taxi supply there is a low probability that any given regulatory system embracing supply constraints will yield outcomes at, or near the "optimal" degree of supply restriction over time. Rather, the observed degree of supply restriction in a range of jurisdictions leads to the conclusion that even advocates of the view that a theoretical "optimal" supply of taxis can be found at some level below the free market equilibrium should probably favour a free entry system on "second best" grounds.

However, while the above demonstrates a widespread tendency for supply restrictions to become progressively more severe over time, this trend is not universal. OECD (2000, pp 11-12) cites taxi licence values in a range of capital cities, covering the US and five other countries. The ten cities in five other countries for which data were included all demonstrated significant scarcity values (ranging from \$46,000 (1990) in Paris to \$215,000 (1995) in Sydney, with only three valued at less than \$100,000).

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<sup>17</sup> Since, in regulated entry markets, price is invariably regulated and is, in essence, set by reference to average costs in most cases.

<sup>18</sup> Comprising transfers to producers of \$66 million and deadweight losses of \$6 million.

By contrast, the position in the 11 US cities cited was more mixed, with five demonstrating high scarcity values (\$55,000 to \$250,000) and five with low licence values (less than \$25,000)<sup>19</sup>. These observations are consistent with the observations of some reviews of the experience of taxi deregulation in some US cities during the 1970s and 1980s. For example, the NCC (2002) noted that low licence values in a large proportion of the 21 cities that deregulated entry to their taxi markets in this period and were reviewed by Teal and Berglund (1987) and Price Waterhouse (1993) indicated that the pre-deregulation starting point in these cities was much closer to a notional free-market equilibrium than is the case in the majority of regulated-entry taxi markets.

The observation of cases in which supply regulation has not led to progressively increasing excess demand shows that regulatory capture is not necessarily successfully achieved in the taxi market and suggests the utility of studying the factors that have led to comparatively good performance by some regulators in the specific taxi-market context. Nonetheless, the evidence presented above suggests that successful regulatory capture is more likely than not in a restricted entry context. This provides strong empirical support to the theoretical arguments against regulatory restrictions on entry cited above.

#### *4.2.1 Supply restrictions and price regulation*

A probable partial explanation for the observed widespread tendency for supply restrictions to yield rapidly increasing licence values over time (at least in jurisdictions in which licences are made tradeable) relates to the interaction between supply restrictions and price regulation.

Once licences attain a substantial exchange value, the cost base of operators who have had to purchase a licence at or near its current high prices, as well as those who lease a licence, include a substantial element relating to servicing the capital cost of the licence (or paying the lease cost). In this situation, lobbying for price regulation to take these costs into account inevitably follows. This reflects the fact that price regulation for the taxi industry is commonly based largely or wholly on “cost plus” methodologies.

Regulators appear to have taken different views on the question of whether fare-setting methodologies should include allowance for the capital costs of taxi licences. However, a “vicious circle” clearly arises where these capital costs are included: fare increases granted due to increases in licence costs inevitably increase average revenues and, hence, the monopoly rents accruing to licence-holders. Since the licence value entirely reflects the capitalised value of these expected future rents, the licence value will rise in response. This, in turn, can only lead to further pressure for fare increases.

ESC ((2005, pp 38-9) also highlights the existence of a direct transmission mechanism in the case of leased licences that is conceptually equivalent to the above. It found that many licence lease agreements included clauses which automatically escalated lease payments in the event of fare increases. This automatic increase in lease payments would then inevitably and immediately feed into licence prices.

Given the above, it is clear that price regulation should not take account of licence values, even where these are substantial. In practice, even those price regulatory systems that do not explicitly account for licence values have largely demonstrated poor performance in preventing ever increasing monopoly profits from flowing to licence owners. However, adding an element to the system that explicitly provides a negative feedback loop can clearly only serve to exacerbate this problem.

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<sup>19</sup> The eleventh observation (\$23,000 in Chicago in 1990) is difficult to classify.

### 4.3 *Experience with deregulation*

As noted above, Moore and Balaker (2006) find that most economists who examine taxi deregulation conclude that it is beneficial in net terms. Considering the literature on taxi deregulation more broadly, a reasonable generalisation is that earlier analyses are more likely to reach negative conclusions, while more recent assessments are much more likely to be positive. This may partly reflect specific aspects of the different cases of deregulation examined. Equally, different interpretations of the evidence may be significant in some cases.

For example, Teal and Berglund (1987) and Price Waterhouse (1993) both assess the experiences of a number of US cities that deregulated entry to the taxi industry in the 1970s and 1980s and reach broadly negative conclusions. However, others note that Frankena and Pautler (1984) review the same data and reach more positive conclusions, in particular concluding that, even where problems had arisen in the post-deregulation environment, other regulatory responses were likely to be preferable to a re-imposition of entry controls, which they judge to be not theoretically supportable (OECD (2000), p 7, p 17).

Similarly, in 2002, Australia's National Competition Council concluded in relation to the post-deregulation problems identified by Teal and Berglund and Price Waterhouse that:

*Many of these problems relate, however, to failures of quality regulation, rather than to supply deregulation. Moreover, pre-deregulation licence values in the United States were generally much lower than those currently in Australia, suggesting that there was less scope for deregulation to lead to major market realignments in favour of the consumer than is the case in Australia. Tellingly, 15 of the 21 cities considered by Price Waterhouse maintained their open access policies, indicating that around three quarters of cities found, on the basis of direct experience, that removing supply restrictions provided a net benefit. (NCC (2002), p 5-3).*

Indeed, Teal and Berglund (1987, p41) publish data showing that new entry averaged only 52% of the existing fleet in the cities studied, excluding the outlying result of 127% in San Diego. By contrast to this US experience, much of the recent post-deregulation experience relates to cities in which the degree of supply restriction (as indicated by licence values) was substantial. For example, Dublin licence prices were £90,000 before deregulation. Barrett (2003, p 35) shows that the number of taxis in Dublin increased by 216% in the two years immediately following deregulation, while increases in five other Irish cities ranged from 110% to 258%<sup>20</sup>. A review by Goodbody Economic Consultants (2001) reports the results of a post-deregulation consumer survey that found “more than two thirds” believed that deregulation was a good step, with 14% disagreeing. Approximately 50% of respondents believed that taxi services had improved since deregulation, while only 5% felt that they had deteriorated. Goodbody reported that:

*“Despite the continuing problems, there is evidence that waiting times post-midnight have improved significantly since 1997.”*

Goodbody also concluded that the overall availability of cabs had improved substantially, while the fact that a higher proportion of the overall fleet was now taxis (cf hackneys), it was likely that the efficiency of taxi services had also improved.

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<sup>20</sup> Barrett mislabels his data, with the “% increase” figures actually given representing the post-deregulation total as a % of the pre-deregulation number of licences. Figures given above are thus corrected.

In New Zealand, the number of taxis operating in major cities also increased by almost 200% following deregulation in 1989<sup>21</sup>. According to Morrison (1997):

*The 1989 legislation, which removed the quantitative controls (deregulation), has been followed by a tripling of the number of companies in the metropolitan centres and a massive increase in the number of taxi cabs. A much wider range of taxi services now exploit different market segments and offer a wider geographic coverage. These changes have been accompanied by a decline in fares in real, if not nominal, terms.*

Following the removal of supply controls on taxi numbers in Sweden in 1989, the number of taxis also increased substantially, approximately doubling in large cities including Stockholm and Goteborg in the first two years after deregulation. Garling et al (1995 – cited in Kang (1998)) found that the availability of taxis had improved in cities of all sizes. After initially rising, for a range of reasons including the introduction of a 20% VAT on transport services, fare levels fell substantially.

The Netherlands implemented a range of taxi reforms in 2000, including the removal of supply controls. Despite an economic downturn (including a move into recession in 2003), the post-deregulation picture was broadly positive, with a 50% increase in taxi numbers to 2003, a 20% increase in the number of passenger kilometres travelled and consumer satisfaction levels being maintained or improved. A number of negative indicators were noted, including a declining proportion of the population using taxis and increasing fares. However, these were judged to be due to a combination of the economic downturn and the fact that a post-deregulation equilibrium had yet to be reached. In general, the changes were judged to be successful (OECD/ECMT (2007), pp 59-84).

An additional benefit of deregulation that has been widely cited is that of substantial innovation. Kang (1995) found that significant innovations had occurred following the Swedish deregulation, including the adoption of differentiated fare structures to encourage taxi use in off-peak periods. Violland (2007) argues that “organisational” innovations are also favoured by deregulating entry, citing an increase in new contractual relationships between taxi companies and major hotels and companies. Soon (1999) cites examples of service innovation in post-deregulation New Zealand, including the introduction of taxi vans and executive cabs, new taxi charge credit systems, more advertising on cabs and tendering for public bus routes by some cab companies. By contrast, Soon cites an example of the regulator in a highly restricted taxi market (Melbourne, Australia) vetoing a proposed innovative service involving the provision of women-only drivers and argues that there is a systematic tendency for heavily regulated taxi markets to reduce levels of innovation.

Violland (2007) also argues that groups that have generally received the poorest service levels in regulated entry markets tend to receive the most substantial benefits following deregulation of entry, since greater competitive pressures in the market overall lead operators to be increasingly ready to serve these groups. He identifies people with reduced mobility (citing the experience of Japan, in particular) and residents of outer suburban and rural areas.

#### 4.3.1 Summary

A fundamental observation is that the experience of deregulation of entry controls will be highly dependent upon the initial, pre-deregulation position. Where the management of regulation restricting supply has been relatively competent, keeping regulated supply relatively close to free entry equilibrium levels and licence values at low levels, significant new entry is unlikely. However, where entry regulation

<sup>21</sup> According to NCC (2002, p 5-3), the number of taxis operating increased from 2,567 in 1989 to 6,907 in 1998.

has severely restricted supply, immediate deregulation of entry is likely to lead to increases in taxi numbers of 200% or more, as occurred in both Ireland and New Zealand, for example.

In the latter circumstance, a possibility of equilibrium supply levels being overshoot in the short-term clearly exists. On the other hand, what may appear in the short-term to be an unsustainable increase in taxi numbers has, in many cases, proved to be the new free-market equilibrium number of taxis. A further likelihood is that, given substantial new entry to the industry by inexperienced operators, together with the development of substantially increased competitive pressures, lower earnings and high rates of business failure are likely to result in the short term.

In these circumstances, voices are frequently raised suggesting that deregulation has generated a chaotic and unsustainable industry and that a return to restrict entry conditions would be preferable. Such calls are, necessarily, supported by previous incumbents seeking a return to previous, favourable industry conditions.

Apparent negative short-term impacts of deregulated entry are also often associated with premature deregulation of fare levels and a failure to implement light handed regulatory controls that would assist consumers to look after their own interests in a deregulated market, such as a notification and/or advertising requirements. There appears to be a significant danger that regulators will underestimate the size of the industry adjustment that will follow deregulation of entry and give inadequate attention to the need to adopt a supportive regulatory environment in other areas. This is likely to be particularly important in the short-term, as consumers adjust their behaviour to the new industry environment, but may also be significant in the longer term.

## **5. Issues in achieving pro-competitive regulatory reform**

It is widely observed that, the further the actual number of taxis licensed falls short of an open entry equilibrium level, the more difficult is the task of achieving major reform. Fundamentally, this reflects the fact that the effective value of taxi licences will rise in line with their relative scarcity. This, in turn, has several other affects:

- As the monopoly rents accruing to each licence holder increase, so too do the incentives of incumbents to lobby vigorously against any reform;
- As supply restrictions become more severe, additional regulatory interventions are frequently adopted which seek to address the distortions caused by the supply restriction itself. These must be removed or reformed as part of the wider reform process; and
- As total licence value (representing the capitalised value of expected monopoly rents) increases, the expected cost of any compensation paid to licence holders increases, while the political cost of undertaking reform without paying compensation also increases.

In light of these difficulties, governments considering lessening supply restrictions face two, interrelated decisions: whether an immediate move to open entry should be preferred over a gradualist approach and whether partial or full compensation should be paid in respect of the value of existing licences.

### **5.1 Compensation issues**

Soon (1999) argues that the compensation issue is “both a moral and practical one”. Morally, it is possible to argue that licence holders should be compensated for the loss of their licence values, since the

government policy change has disproportionately disadvantaged them as a group. This argument is arguably strengthened to the extent that the immediate elimination of licence values may lead to financial hardship in some cases. The case of recent purchasers of taxi licences, who presumably expected existing government policy to continue in the medium term at least, is generally cited in this context.

#### **Box 1. Italian Taxi Reform of 2006**

In June 2006 Decree n. 223/2006, which liberalised a number of sectors in the Italian economy, abolished the requirement that individuals should hold only one taxi license and allowed municipalities to issue new taxi licences through a bidding process (while in the past they were issued for free). The Decree was immediately enforceable, but was subject to change, since Parliament had 60 days to discuss it and, eventually, approve it.

The decree created a very strong reaction by taxi drivers (with strikes and demonstrations in major cities) that protested that their income would strongly be reduced, if new licences were issued. They claimed that any problem in taxi services originated from excessive private traffic (especially at peak hours) and that any increase in the number of taxi licenses would only lead to reductions in taxi drivers income without any improvement in quality. The protests which were very loud and angry led the Government to weaken the reform (maintaining the requirement that each individual could hold only one taxi licence). Parliament approved.

According to the new law Municipalities are now allowed to:

- organise additional shifts for taxis in order to increase the overall number of available cars at peak times;
- issue new licences, to be awarded through tenders, to qualified people who are not already taxi licence holders (i.e. the requirement that taxi licences are granted only to individuals and that each individual should hold only one taxi licence is maintained). At least 80% of the income from any tender shall be used to compensate the holders of existing licences issued by the same municipality. The municipalities shall use any additional resources to improve non scheduled public transport services;
- provide temporary or seasonal licences (with preference for hire car drivers and taxi licence holders) in order to cope with special circumstances that may occur;
- regulate the price of taxi services for specific routes (e.g. airports, stations), so as to avoid the exploitation of market power with respect to inexperienced customers (i.e. tourists).

There is no experience available yet on the application of these provisions (except for the regulation of the price of the service for some specific routes).

However, a strong counter argument is that purchasers of an intangible asset that derives its value entirely from a particular government policy stance are presumably aware of the omnipresent risk that changes in the government policy position may significantly reduce the value of the asset. Similarly, policy changes (or, perhaps more correctly, policy stasis) may substantially increase the value of the asset: in fact, licence holders have generally achieved high rates of return and these high rates you should, arguably, be seen as reflecting the inherently high level of risk associated with the investment<sup>22</sup>. Symmetry would seem to argue that, just as licence holders have been able to reap windfall gains from past government policy choices, without these being confiscated, so they must expect to bear windfall losses due to other policy choices, without compensation.

<sup>22</sup>

The major risk involved inevitably being that of deregulation.

At a practical level some, such as Soon, argue that:

*Reform is less likely to be disruptive if affected interests can be “bought off”. Though New Zealand succeeded in deregulating its taxi industry without any compensation, it did so in an extraordinary period when many other reforms took place.*

This argument may, however, be unduly pessimistic. New Zealand is not the only jurisdiction to have removed supply restrictions immediately without paying compensation: Ireland also followed this path in 2000. Moreover, legal challenges to the Irish reforms by licence owners were unsuccessful and ended in clear judicial statements to the effect that there was no legal obligation on governments to pay compensation. Barrett (2003) notes that:

*In Irish law there are three judgements that taxi licences do not confer property rights and that the terms under which they are held may therefore be altered without compensation.*

The first of these is the decision in *Hempenstall v Minister for the Environment* (1992) which states:

*‘property rights arising in licences created by law ... are subject to the conditions created by law and an implied condition that the law may change those conditions. Changes brought about by law may enhance the value of those property rights ..., 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.’ (cited in Barrett (2003), pp 35-6)*

That is, the nature of the “property right” conferred by a regulatory licence is that it is inherently conditional on any future changes to the law that may alter its nature or value. Consequently, such changes do not amount to an abrogation of a property right of the kind that would give rise to a legal right to compensation. This position was subsequently confirmed in two further cases<sup>23</sup>.

Moreover, while incumbents would clearly prefer to obtain compensation, rather than not, it is less clear that the promise of compensation would substantially eliminate opposition to reform from this quarter. From the viewpoint of licence-holders, the maximum amount of compensation likely to be payable by a reformist government will not exceed the immediately realisable value of the licence. In a context in which licence values have historically risen rapidly, licence-holders can be expected to prefer the prospect of continued gains to a compulsory buy-out at existing prices.

More fundamentally, while Soon argues that non-payment of compensation may prove a practical impediment to reform, it is equally arguable that the perceived need to pay full compensation is itself a substantial barrier to regulatory reform. On the figures cited above, the cost of compensating all taxi licence holders for the loss of the full market value of their licences would be approximately US\$6.6 billion in New York and A\$1.6 billion in Melbourne and would have been £245 million in pre-deregulation Dublin. Clearly, governments would expect to encounter substantial political difficulties in justifying distributing these sums to small interest groups in order to compensate them for the removal of their right to extract monopoly rents from consumers.

<sup>23</sup> *Humphry and others vs Minister for the Environment* (2000) and *Gorman, Kearns, and National Taxi Drivers Union v the Minister of State and the Attorney General* (2001), a judicial review of the decision in *Humphry*. See [www.bailii.org](http://www.bailii.org)



Moreover, providing full compensation is undesirable for another reason. Given that taxi licence values reflect the present value of future monopoly rents, the payment of full compensation effectively entails taxpayers transferring to the existing licence holders a sum equivalent to virtually the entire present value of the future of flow of benefits from the removal of supply restrictions. Soon notes that, given that not all taxpayers are taxi users, this means that some taxpayers would actually be worse off than before.

For this reason, proposals to provide limited amounts of compensation in the event of the removal of supply restrictions have been put forward in some cases. These have included models that would compensate incumbents based on their ingoing investments, rather than the paper value of their licences immediately prior to the deregulation policy being announced (e.g. Deighton-Smith (2000)). Such approaches are essentially based on recognition of the political desirability of avoiding imposing financial hardship as a result of rapid reforms, while ensuring that the benefits of reform are largely available to be reaped by consumers.

In sum, it is unlikely that licence holders will have a legal right to compensation in the event of the deregulation of taxi numbers, while there are strong reasons to believe that attempts to implement schemes that would pay compensation to these licence holders are likely to undermine the possibility of successfully removing restrictions on licence numbers. Given this, and the substantial risk that paying significant compensation to existing licence holders would lead to them, as a group, appropriating a substantial proportion of the available benefits from reform, it is unlikely to constitute an appropriate strategy for achieving successful reform of taxi licensing.

#### **Box 2. Taxi reform gone wrong: the experience of the Northern Territory**

The Northern Territory Government was the only government to remove entry restrictions on its taxi industry as part of the Australian National Competition Policy reforms. It removed restrictions in January 1999 and paid compensation to incumbent licence holders based on the highest licence sale price observed prior to the reform. However, annual licence fees were implemented in an attempt to recoup the cost of the compensation package. In Darwin, where \$95,000 had been paid per licence in compensation, the annual fee was \$16,000. This fee was to be removed following recoupment of the compensation costs, estimated to occur in seven to eight years.

The high annual fee restricted entry to levels substantially lower than those experienced in New Zealand and Ireland. Nonetheless, the industry complained strongly of an overcrowded market and low rates of return to both existing and new entrants. This, plus some conduct related complaints led, the government to respond by re-imposing a “temporary” cap on licence numbers as soon as November 2001. The “temporary” cap was twice extended and has now been made permanent, with a maximum of 11.1 taxis per 10,000 population being allowed (NCC (2003), p 2-19) – a level similar to that ruling in other Australian capitals characterised by major supply restrictions and very high licence prices and only about one third of that found in New Zealand’s open taxi market. The annual licence fee (still \$16,000 in Darwin) continues to be paid, almost eight years after the initial reforms, with no indication that it is now intended to be other than permanent.

Thus, the net impact of taxi reform in the Northern Territory appears to have been an initial transfer of approximately A\$100 million to incumbent licence holders, followed by the adoption of a system that will see the monopoly rents from restricting entry to the taxi market accrue in perpetuity to the government, rather than being appropriated by licence-holders. While the latter is a preferable outcome to the pre-reform situation, the market position of consumers is now essentially unchanged from that obtaining before the reform process began, with the exception that the use of an explicit formula to set taxi numbers reduces the risk that relative supply will become even more constrained over time. The Northern Territory experience thus serves as a clear example of the difficulty of embedding open entry reforms in the long-term.

## 5.2 *Immediate deregulation vs gradual removal of supply restrictions*

The substantial size of the financial losses that would be incurred by licence holders in the event of the immediate deregulation of entry in taxi markets characterised by very high licence values has led, in a number of cases, to proposals to increase taxi numbers in a gradual, or limited fashion. For example, following reports prepared for the Irish government in 1992 and 1998, which recommended gradual liberalisation, the proposal initially advanced by the Irish government in 1999 was that an additional taxi licence be issued to each existing licence holder, while a further 500 licences would be issued, with preference being given to existing taxi drivers who did not currently hold a licence (Barrett (2003), pp 36-7)<sup>24</sup>.

Similarly, in 2002, the Victorian government announced a twelve year programme of gradual releases of new taxi licences, with new issues amounting to approximately 3% of the existing stock of licences each year.

However, a significant practical problem with proposals of this type is the tendency of analysts to underestimate substantially the equilibrium number of taxi licences in a given market. For example, the Oscar Faber Report prepared for the Irish government in 1998 argued that a fleet of 5900 taxis would be needed after 10 years in order to service the Dublin market. In the event, two years after deregulation, 9000 taxis were operating in Dublin (Barrett (2003)).

Similarly, in Melbourne, the gradual adjustment policy announced in 2002 had the stated intention of achieving a phased transition towards a more lightly regulated industry, with a gradual decline in licence values over time and a breaking of the nexus between the provision of taxi services and the taxi licence as an asset. (ESC (2005), pp14-15). It was considered that these objectives could be achieved by the annual release of new licences equal to about 3% of the initial base for twelve years. Again, however, the number of new licences needed in order to move towards supply/demand equilibrium was substantially underestimated. In a context in which demand had historically been growing by at least 3% per annum over the preceding two decades, unsurprisingly, the policy has failed to reduce the relative scarcity of taxis, as reflected in the fact that the value of taxi licences has increased by almost 50% in the five years since its introduction (see above).

Thus, a significant risk in relation to gradualist reform programs is that rates of entry will be unduly low and that significant progress towards improved supply/demand balance will not be achieved. This risk is substantially compounded by a second concern: that licence-holders will, through continued strong lobbying, be successful in further slowing, or even halting the gradualist reform program. Thus, if gradual reform is contemplated, mechanisms to ensure both that adequate steps are taken and that they are “locked in” in ways that safeguard against future policy reversals are both essential factors in generating a reasonable prospect of success.

However, even abstracting from these policy risks of gradualist reform, a major disadvantage is that the benefits of reform are, at a minimum, substantially delayed. As noted above, Victoria’s current program was conceived as a twelve year process, with no explicit expectation of eliminating excess demand even at the end of this time. Five years into the reform process, progress has been negative. While this is arguably an extreme example, it is clear that any staged reform program adopted in an attempt to minimise and spread the losses experienced by incumbents will necessarily involve major consumer costs, accruing over an extended period. Given this, and the policy risks highlighted above, significant concerns attend this approach to reform.

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<sup>24</sup> This proposal was successfully challenged in the courts, leading indirectly to the immediate deregulation of entry.

By contrast, the New Zealand and Irish experiences provide a clear demonstration of both the feasibility and the effectiveness of implementing immediate reforms. In each case, taxi numbers have grown quickly and very substantially in response to the opening of entry to the market and consumer satisfaction with taxi services has increased. No compensation was paid in the New Zealand case, while compensation in the Irish case was limited to relatively small payments made to alleviate financial hardship. Thus, consumers in both cases obtained virtually all the benefits of reform and did so within a short period after the decision to implement reform was made.

### **5.3 *A supportive regulatory environment***

Deregulating taxi supply does not, in conceptual terms, necessarily imply removing, or even downgrading quality regulations. Equally, the adoption of supporting economic regulations may contribute to the ability of supply deregulation to add to consumer welfare and the overall efficiency of the industry.

#### **5.3.1 *Quality regulation***

##### **Conduct regulation**

A number of post-deregulation studies have highlighted an increasing incidence of conduct problems, including refusals of short trips, “no shows” and other forms of poor driver behaviour. These problems have been attributed by some commentators to the greater economic pressures experienced by operators in an open-entry market. Clearly, to the extent that these problems are found to be of sufficient magnitude as to constitute real equity and service quality issues, ensuring the existence and adequate enforcement of appropriate conduct rules will be an important regulatory task. This requirement includes the availability of an appropriate range of sanctions for non-compliance. Such sanctions would need to include exclusion from the industry: it must be underlined that the removal of quantity restrictions does not imply that poor performers cannot be denied licensing.

##### **Vehicle standards**

Vehicle standards are regulated in many, though not all, markets. At a minimum level, such standards are essentially safety related and are, therefore, equally desirable in an open-entry taxi market. Such requirements include periodic “roadworthiness” testing while, in some cases, restrictions on vehicle age are adopted as a poor proxy for this approach.

Given the low proportion of the capital costs of the taxi vehicle in total taxi operating costs (estimated by ESC (2005) at around xx %), such regulation is likely to have limited impact on competition in the market. However, given that vehicle age limits constitute a very poor means of ensuring that taxis are maintained in roadworthy condition, the benefits of such regulations are questionable. At the margin, it may be argued that constant improvements in average vehicle safety standards over time suggest that taxi consumers should be guaranteed relatively recent (hence, well performing) vehicles as part of minimum regulated service standards.

##### **Driver standards**

Regulation of driver standards typically embraces a “fit and proper person” test, designed to ensure passenger safety, and may also include tests of linguistic skills and/or route knowledge, with both of the latter being oriented towards broader service quality issues. The importance of these tests is arguably likely to increase in an open-entry environment, making maintaining and even increasing regulation in this area advisable. Some (e.g. Violland (2007)), argue that when entry to the taxi market is opened, new drivers often come from immigrant communities and frequently have linguistic difficulties or, more

generally, that skill levels are likely to be low. However, observation of some highly regulated markets, including those of many Australian capitals, indicates that these are also frequently characterised by high proportions of new migrants. In markets in which scarce licences are freely traded, profits accrue predominantly to licence holders, while driver remuneration is typically very low and drivers are, as a consequence, frequently marginal labour market participants (ESC (2005), pp 45-6, *et passim*).

These observations suggest that opening entry may not have a significant impact in exacerbating driver quality issues, but that these issues are likely to remain of relevance and require continued regulation. That said, it must be recognised that taxi driving is, essentially a low-skilled occupation and that attempts to regulate to require formal training courses to be completed<sup>25</sup> are of questionable merit. Indeed, Violland (2007) argues that technological advances such as GPS systems are rapidly rendering obsolete the route knowledge standards enforced as a key skill requirement in many jurisdictions.

### Facilitating innovation

A further issue relates to the role of the regulatory environment in enabling and facilitating the development of innovative services, since such innovation is potentially a substantial driver of consumer benefits due to reform. Moore and Balaker (2006, p 115) note that, in many cases, little innovation has followed deregulatory initiatives. However, they argue that the explanation is that in many cases the deregulation has been only partial in extent and that remaining regulatory constraints frequently limit the scope for innovations. For example, if price regulation is to be retained (see below) care must be taken to ensure that it does not inhibit the development of premium services or, on the other hand, of shared ride arrangements.

#### 5.3.2 Price regulation

Studies of taxi markets characterised by strong entry restrictions and consequent high taxi licence prices have pointed to the resulting substantial impact in increasing service provision costs<sup>26</sup>. In making the case for the removal of supply restrictions, it is frequently pointed out that, *ceteris paribus*, the removal of high licence prices would provide the possibility of a significant price reductions for taxi services.

This observation has frequently been extended to become an assertion that reductions in consumer prices necessarily constitute an expected outcome of the removal of supply restrictions in the taxi industry. At first principles, a substantial increase in the supply of a good or service can be expected to reduce its market price. However, several factors suggest that the removal of supply constraints on taxis may yield relatively small, if any, reductions in price.

Most apparently, average utilisation rates are generally lower in an open entry market than in markets characterised by highly restricted supply, notwithstanding the observation that increasing supply itself brings forth increased demand for taxi services. If average utilisation rates are lower, the presence of standing costs means that cost per paid kilometre will be increased, partially offsetting the cost reductions derived from the removal of the supply restriction in the first instance.

<sup>25</sup>

See:

<http://www.taxi.vic.gov.au/doi/internet/vehicles.nsf/AllDocs/FEFCF82BA0CAAEEECA256F3200205E90?OpenDocument> for details of a 13 step “driver accreditation” process used in Victoria, Australia, including a 90 hour formal training course in taxi driving.

<sup>26</sup>

Since a service providers must be the substantial costs of either leasing a taxi licence or servicing the capital cost of licence purchase.

Secondly, it has been observed that where price regulation is removed concurrently with regulated supply restrictions, observed price movements may, in part, reflect an adjustment away from a previously artificially low price position.

Thirdly, observed price rises in a deregulated market are likely to reflect, at least in part, the existence of market imperfections, particularly in the street-hail and rank markets. As noted in section 2, cruising taxis effectively have localised monopolies, while consumers experience substantial difficulty in comparing their price offers with other price offers that may, potentially become available in the near future. The larger are the rank and hail markets, relative to the less imperfectly functional pre-booked market, the more significant this effect is likely to be. Moreover, Violland (2007, p4) argues that taxi operators faced with declining average revenues in the post-deregulation environment are likely to respond by increasing prices.

As noted elsewhere, practical experience with the deregulation of supply constraints shows that price falls occur in some, though not all cases. Some analysts (e.g. Teal & Berglund (1987), p 54) point to the absence of substantial price declines in several post-deregulation markets as evidence that the anticipated benefits of deregulation are absent in practice, with this view forming a significant part of many arguments against the removal of supply restrictions.

However, these views fail to take adequate account of two points. First, the observation that waiting time is a component of service quality suggests that the consumer benefits of deregulation may, in many cases, be observed in the form of substantial reductions in waiting time, rather than as reduced prices: in a market characterised by unregulated prices and unregulated entry, multiple equilibria are possible, with those exhibiting lower waiting times being associated with higher prices, and vice versa. Where consumers have relatively strong preferences for short waiting times, relatively high price outcomes can be expected.

Second, the lack of observed price falls may reflect, at least in part, the failure to adopt supportive regulatory arrangements in conjunction with the removal of supply restrictions. Recognising the market imperfections discussed above, virtually all commentators propose that some form of price regulation be continued in open entry environments. These prescriptions differ quite widely in terms of the extent of intervention proposed. However, it appears that cases in which price rises have followed deregulation are often those in which no such price-regulatory measures have been taken.

A minimalist view of regulatory requirements in relation to pricing argues that price setting, per se, is likely to be unnecessary. Rather, it may be sufficient to address the issue of information asymmetry by regulating permitted fare structures and requiring various forms of fare disclosure. For example, regulation may require fares to be posted on websites & on the exterior of taxis, while the frequency of fare changes may also be regulated. Advances in mobile information technology could also potentially be harnessed to assist in minimising consumer information problems in systems characterised by less intrusive price regulation.

Alternatively, it may be considered that retaining formal price regulation provides a high degree of certainty that consumers will quickly experience the benefits of entry deregulation, thus ensuring its fundamental policy objectives are met, as well as underpinning political support for the policy change and reducing the probability of successful lobbying for policy reversal. Even if lighter handed approaches to price regulation are favoured as longer term outcomes, there is a clear case for retaining formal regulation during the transition from a highly regulated industry to a new, open entry equilibrium position.

However, if formal price regulation is to be retained, careful attention must be paid to the institutional arrangements by which it is achieved. As discussed above, regulatory capture is a near-endemic feature of

the taxi industry: an example in the context of price regulation being given by the above-mentioned 31% increase in regulated real taxi fares in Victoria between 1987 and 2000<sup>27</sup>. This factor underlines the importance of avoiding the use of industry-specific regulators and ensuring that the body responsible for price regulation has adequate economic expertise. It may also be appropriate to provide clear instructions to the price regulator as to the objectives and expected outcomes of the price regulatory regime.

In sum, the evidence on actual price changes following the deregulation of entry is mixed, but indicates that reductions in average prices can be expected in most cases, provided that some level of price regulation is retained. Price falls are obviously most likely to be observed where the pre-deregulation position has been one of substantial supply restrictions. Experience suggests, however, that much of the consumer benefit associated with entry deregulation will be observed in terms of substantially reduced waiting times following from high levels of entry.

## 6. Conclusions

While entry to the taxi industry continues to be tightly restricted in much of the Western world, there is a discernible trend towards the removal of restrictions on taxi numbers (NCC (2002), p 5-3). This reflects the existence of strong practical and theoretical arguments for removing entry restrictions. At a theoretical level, the specific harms said to occur as a result of an "oversupply" of taxis do not provide strong support for a policy of restricting entry. Economic models purporting to demonstrate the possibility of welfare improvements as a result of the restricting taxi numbers are generally reliant on a range of restrictive assumptions, while the views of a substantial majority of economists are in favour of open entry. Even were the case to be adequately made for the existence of theoretical welfare gains from restricting entry to the taxi market, it is also necessary to establish that a policy of regulated entry could be managed in a way that would be expected to yield superior outcomes in order to support such a policy prescription. Experience with the application of restricted entry policy does not support this proposition.

Given these factors, the central focus of regulatory reform in those taxi markets in which entry is currently restricted should be on removing the supply restrictions. However, the removal of quantity regulation should not be characterised as a policy of the complete "deregulation" of the taxi industry. In order to ensure that the potential benefits of removing supply restrictions are achieved in practice, careful attention should be given to the design of pro-competitive regulations to support the development of a more competitive market structure which better meets consumer needs and is also consistent with the provision of adequate degrees of consumer protection.

This pro-competitive regulation should include, at a minimum, appropriate mechanisms to ensure that consumers are adequately informed about taxi prices. Careful consideration should be given to the potential benefits of maintaining formal price regulation, at least for a medium-term transitional period. However, price regulation must be carefully constructed in order to avoid creating barriers to the introduction of innovative services (e.g. high price/high quality service combinations). Requirements for all taxis to be affiliated with a radio dispatch network are also likely to be appropriate in most cases as a means of maximising taxi productivity and competition in the radio dispatch market.

Appropriate quality regulation is likely to be important in order to ensure the maintenance of consumer confidence in an opening entry market, particularly where substantial new entry is likely as a result of very restrictive past policy is being reversed. Supporting regulation should include vehicle and driver standards. Where entry deregulation has been reversed, this has frequently been the result of vested interests taking advantage of short-term disequilibrium situations in which consumer confidence has been

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<sup>27</sup>

See footnote 10.

undermined. Where this has occurred a failure to ensure appropriate quality standards have been maintained has often been a significant contributor.

However, while continued quality regulation is essential, care must be taken to ensure that these restrictions do not unduly limited the development of a wide range of market offers able to meet a similarly broad range of consumer needs. In particular, beyond an appropriate concern for safety, low price/low quality market offers should not be ruled out by regulatory intervention. Concern should also be had to ensure that remaining regulations do not impose artificial constraints on the development of innovative services or on inter-modal competition.

Where entry restrictions have endured and become more severe over a long period, central monopoly rents will have accrued to incumbents. The high value of tradable licences, reflecting the capitalised value of these expected future monopoly rents, constitutes a significant political impediment to reform and frequently leads to gradualist reform proposals being put forward. However, such gradualism substantially delays the achievement of the economic efficiency gains and transfers to consumers reform generates. Moreover, it provides substantial opportunities for incumbents to halt or even reverse the reforms through continued lobbying.

For these reasons, immediate reform should generally be preferred to gradualist reform. Where gradualist reform is unavoidable, the probability of its being successful can be maximised by strategies intended to “lock in” the reform program. In particular, a broad policy position in relation to the taxi industry should be formally enunciated, with prominence given to the objectives of ensuring an efficient and competitive market generates and that consumer welfare is paramount. Other strategies include outlining a specific long-term reform program at the outset, setting out objectively verifiable performance indicators and incorporating mechanisms for assessing the progress of reform and adapting the reform program progressively as a result. Adopting the reform program in legislation may also be a useful mechanism to minimise the likelihood of reform being halted or reversed<sup>28</sup>.

Where immediate deregulation of entry is contemplated in a context in which severe supply restrictions have been in place, strong calls for compensation to be paid can be expected. However, experience suggests that governments are unlikely to face any legal liability to pay compensation. Moreover, the high cost of paying market value based compensation in these circumstances will almost certainly constitute a substantial impediment to achieving reform, while also creating a substantial risk that the great majority of the benefits of reform or be captured by the incumbents. At a policy level, compensating licence holders for the loss of their right to extract monopoly rents from consumers can be considered to be unconscionable.

For all of these reasons, governments should be wary of calls to pay compensation. Compensation payments are considered unavoidable, or politically desirable, approaches based on mitigating financial hardship or on compensating only for amounts actually paid for licences (cf the current market value) should be considered.

Finally, if continuing regulatory restrictions on taxi numbers are considered unavoidable, strategies are needed to minimise the expected welfare loss that will result by attempting to ensure that the regulated supply of taxis approaches as nearly as possible the free market equilibrium level. In particular, taxi numbers should be set according to objective rules: by minimising the scope for discretionary judgments by regulators the substantial dangers of regulatory capture can be minimised. Appropriate formulae for the determination of taxi numbers should be based on the best available proxies for taxi demand.

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<sup>28</sup>

See NCC (2002), p 5-20.

In these circumstances there are strong arguments for governments to regulate taxi numbers through the annual sale or auction of taxi permits, rather than through the sale of permanent taxi licences. An annual sale mechanism allows any economic rents accruing from the limitation on taxi numbers to be captured by the government, rather than by the industry, while also preventing the development of substantial licence values as an impediment to future reform.



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## NOTE DE RÉFÉRENCE<sup>1</sup>

*Par le Secrétariat*

### 1. Introduction

En dépit de l'émergence d'une tendance en faveur de réformes majeures au cours des dernières années, le secteur des taxis demeure l'un des plus lourdement réglementés au sein de la plupart des pays développés, y compris dans les économies les plus ouvertes et les plus concurrentielles. Cette réglementation pesante perdure malgré une opinion majoritairement favorable à la libéralisation du secteur parmi les économistes et les avantages concrets apportés aux consommateurs dans les pays ayant entrepris de libéraliser le secteur des taxis. Le maintien de barrières élevées à l'entrée témoigne de l'efficacité des pressions exercées par les opérateurs en place, un facteur particulièrement important à prendre en compte pour le développement et la mise en œuvre de stratégies de réforme.

Cette note de référence vise à analyser la nature du secteur des taxis et les questions liées à sa libéralisation, notamment les restrictions quantitatives à l'entrée. Elle fait le point sur plusieurs ouvrages consacrés au sujet, ainsi que sur l'expérience tirée des pays ayant procédé à la libéralisation. Elle met notamment l'accent sur les facteurs clés liés au passage vers une structure efficace et axée sur le consommateur, éliminant les restrictions qui pèsent sur l'offre et privilégiant une réglementation fondée sur la qualité, la sécurité et le développement d'un marché efficient.

Conclusions de la présente étude :

- Du point de vue social, la restriction du nombre de taxis constitue une mesure injuste : la limitation du nombre de licences n'est en effet pas justifiée du point de vue économique et représente une entrave abusive à la concurrence. Selon certains arguments fondés sur « les effets de densité », la subvention de l'accès au marché pourrait même avoir un impact social positif.
- Dans les pays où le nombre de licence est réglementé, il existe une forte probabilité que les mesures de contrôle soit gérées de manière à limiter l'offre à un niveau bien en deçà de la libre entrée sur le marché, ce qui entraîne une très forte augmentation de la valeur des licences (qui peuvent atteindre 500 000€), signe de l'existence de véritables monopoles. Dans ces situations, le niveau de service offert aux consommateurs diminue, tandis que dans la plupart des cas, les prix augmentent. Ces distorsions de marché se traduisent également par une perte d'efficacité économique (« pertes de poids mort »).
- A l'inverse, dans la plupart des cas, la suppression des restrictions sur l'offre de taxis a bénéficié de manière sensible aux consommateurs : forte hausse du nombre de taxis, raccourcissement des délais d'attente et baisse (ou tout du moins stabilité) des prix. Les difficultés identifiées suite à la libéralisation du secteur sont généralement imputables à l'adoption de réformes incomplètes ou mal conçues. Dans la plupart des pays de l'OCDE, il existe donc aujourd'hui une tendance notable vers la disparition des barrières à l'entrée traditionnellement élevées au sein du secteur des taxis.

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<sup>1</sup> Cette étude a été préparée par Rex Deighton-Smith.

- La suppression des restrictions d'accès au marché devrait être la priorité de la réforme du secteur des taxis, étant donné que cette mesure a l'impact le plus positif du point de vue social. Néanmoins, une libéralisation totale n'est pas souhaitable : compte tenu des imperfections du marché, une certaine forme de réglementation sur les prix doit être maintenue, même dans les marchés ouverts. Dans la même optique, le contrôle de la qualité reste nécessaire, notamment par le biais de normes de sécurité applicables au chauffeur et au véhicule et de l'instauration d'une réglementation visant à garantir une qualité de service minimum, y compris l'égalité de service. Néanmoins, cette réglementation doit être structurée de manière prudente afin d'éviter de décourager le développement d'offres innovantes.
- Le passage d'un environnement caractérisé par de fortes restrictions sur le nombre de licences à un marché ouvert relève d'un véritable défi politique, notamment en raison des pertes importantes attendues parmi les opérateurs en place. Cependant, les précédents juridiques laissent à penser qu'il ne devrait pas être obligatoire d'indemniser ces opérateurs historiques pour les pertes liées à la déréglementation du marché. Les gouvernements pourront choisir d'accorder des indemnités au titre du préjudice subi. Toutefois, il semble peu probable qu'ils soient contraints d'indemniser les opérateurs en place pour la perte de leur rente de monopole.
- Le secteur des taxis se caractérise par d'importants groupes de pression, avec d'importants risques de capture réglementaire. Par conséquent, les réformes devront être immédiates ou tout du moins très rapides, dans la mesure où les réformes progressives courent le risque d'être empêchées par les groupes de pression, tout en retardant sensiblement la concrétisation des bénéfices de la réforme.
- Pour réduire le risque de capture réglementaire, la réglementation du secteur des taxis devrait être mise en œuvre par des autorités plus étendues, bénéficiant d'un réel savoir-faire économique.

## 2. Description du secteur des taxis

Les taxis sont des véhicules de tourisme proposant des services de transport de personnes. Le marché des taxis peut être divisé en trois grandes catégories : les stations de taxis, les taxis hélés dans la rue et les centraux téléphoniques. Les stations de taxis sont des bornes auxquelles les taxis peuvent faire la queue en attendant des passagers et *vice versa*. Les passagers prennent en général le premier taxi de la file. Dans la deuxième catégorie, le consommateur doit hélé les taxis qui circulent dans la rue. Enfin, dans le troisième cas, le client téléphone pour réserver un taxi, afin qu'il lui soit envoyé immédiatement ou plus tard. Les taxis peuvent également proposer des services réguliers dans le cadre de contrats à long terme.

Chaque marché diffère du point de vue du poids de chacun de ces segments. En général, dans les agglomérations à forte densité de population, les deux premières catégories dominent, tandis que dans les zones résidentielles et les villes de province, le marché est dominé par les centraux téléphoniques. D'autres facteurs peuvent également avoir une influence sur cette répartition, notamment les habitudes d'utilisation du taxi.

Les taxis ne sont généralement pas inclus dans un groupe de prestataires de services très similaire (« voitures avec chauffeur »), qui fournit également des services de transport de personnes de point à point mais uniquement suite à une réservation effectuée à l'avance. Néanmoins, il convient de reconnaître que cette distinction est essentiellement liée à l'intervention des autorités de réglementation sur le marché. Dans ces conditions l'analyse des questions politiques liées à la déréglementation du secteur des taxis doit tenir compte de ces deux catégories de service.

## 2.1 *Déficiences du marché*

### 2.1.1 *Centraux téléphoniques*

Sur le marché des centraux téléphoniques, les consommateurs sont idéalement positionnés pour sélectionner leur prestataire de service, en étant en mesure de s'informer sur leur politique tarifaire et de vérifier la disponibilité des véhicules. Ainsi, l'efficacité de la concurrence est relativement garantie. Des préoccupations sont apparues quant à l'existence d'économies de réseau, les réseaux les plus étendus étant en mesure d'offrir une meilleure qualité de service (délais d'attente plus courts)<sup>2</sup>. Si ces économies de réseau sont importantes, elles peuvent avoir un impact négatif sur l'efficacité de la concurrence. Cette question est particulièrement problématique dans les petites villes ou dans celles à faible densité de population.

### 2.1.2 *Taxis hélés dans la rue*

Les consommateurs sont moins bien placés sur ce marché : en hélant un taxi dans la rue, ils ne sont en effet pas informés du délai d'attente avant le prochain taxi ni, dans les marchés où les tarifs ne sont pas réglementés, du prix de la course pratiqué par le taxi actuellement disponible ou de tous les prochains taxis qui passeront dans cette rue. Dans la mesure où le délai d'attente constitue l'un des principaux critères de qualité de service pour les taxis, le consommateur est donc confronté à d'importantes incertitudes quant au tarif et à la qualité du service.

Par ailleurs, les consommateurs ne peuvent « mettre de côté » la première offre en attendant l'arrivée d'un second taxi. Dans ces circonstances, il est possible de mettre en place une politique tarifaire monopolistique, même en présence d'un grand nombre de prestataires (OCDE/ECMT (2007), p 98).

### 2.1.3 *Stations de taxis*

Les consommateurs ayant recours aux stations de taxis sont peut-être encore plus mal placés, s'il est entendu, ou obligatoire, de prendre le premier taxi disponible<sup>3</sup>. En cas de libéralisation des prix et de concurrence entre les taxis stationnés dans la file, il ne sera obligatoirement plus question que les clients choisissent le premier taxi disponible (c'est-à-dire le taxi en tête de file). Or un tel changement d'attitude pourrait prendre du temps.

### 2.1.4 *Déficiences du marché et réglementation*

Au vu des problèmes de transparence de l'information et de contraintes sur le choix des consommateurs évoqués ci-dessus, les arguments en faveur de diverses formes de réglementation se multiplient. Néanmoins, il ne suffit pas de pointer du doigt les défaillances du marché pour justifier la régulation. Il est également nécessaire de décrire comment cette réglementation doit être mise en œuvre et de démontrer en quoi elle sera plus efficace que le fonctionnement actuel du marché. Les paragraphes ci-après décrivent les types de réglementations les plus répandus dans le secteur des taxis et soulignent que l'utilisation des barrières à l'entrée constitue la mesure la plus restrictive sur un marché ouvert. Ils présentent ensuite les arguments en faveur de l'intervention évoqués par les partisans de la réglementation de l'accès au marché et analysent les cas pratiques d'application de cette mesure.

<sup>2</sup> Une autre forme d'économie de réseau apparaît quand, dans certaines villes, un numéro de téléphone est plus connu que les autres. Dans ces conditions, il peut être plus rentable pour les chauffeurs de taxis indépendants de rejoindre les réseaux existants que d'en former un nouveau, ce qui nuit à la concurrence.

<sup>3</sup> S'ils sont répandus, ces modes d'organisation ne sont pas universels. Ainsi, à Bucarest où les prix varient d'un taxi à un autre, il n'est pas prévu que les passagers prennent le premier taxi de la file.

## 2.2 *Différents types de réglementation*

L'intervention réglementaire au sein du secteur des taxis peut prendre de très nombreuses formes. La plupart de ces interventions découlent en effet de la nécessité de corriger les distorsions engendrées par les réglementations précédentes.

Néanmoins, une différence fondamentale existe entre la réglementation quantitative, la réglementation qualitative et la réglementation des pratiques de marché. Bien qu'elles puissent coexister dans la plupart des pays, ces réglementations se distinguent par des implications spécifiques du point de vue social.

### 2.2.1 *Réglementation qualitative*

Dans tous les pays développés, le marché des taxis est soumis à un contrôle qualité. La réglementation de la qualité de service couvre différents champs d'application. Dans un premier temps, le type de véhicules autorisés est généralement réglementé, sur la base de divers facteurs tels que la date de mise en circulation et le type du véhicule, et des normes d'entretien peuvent être instaurées. Ensuite, la normalisation cible les chauffeurs et les opérateurs, sous la forme de tests d'aptitude, d'impératifs d'uniforme et, dans certains cas, de qualifications officielles, y compris de compétences routières.

Ce type de réglementation vise principalement à garantir la sécurité des passagers, tout en veillant à ce que le service fourni réponde à des critères minimum de qualité au-delà de la seule sécurité.

La réglementation qualitative peut avoir un impact négatif sensible sur la concurrence si les normes de qualité sont fixées à des niveaux exagérément élevés. Néanmoins, la nécessité d'une réglementation minimum dans la plupart des domaines cités ci-dessus semble incontestable. Par ailleurs, l'expérience pratique montre que ce type de réglementation ne constitue pas une menace préoccupante en termes d'efficacité et de compétitivité du secteur.

### 2.2.2 *Réglementation des pratiques de marché*

Au sens le plus basique, la réglementation des pratiques de marché inclut l'obligation pour les taxis de prendre tous les passagers, ainsi que les règles relatives à certaines questions précises telles que les accords de location partagée. Or ces questions peuvent être considérées comme appartenant à la catégorie de la réglementation qualitative. Parmi les autres réglementations de pratiques du marché figurent l'obligation d'affiliation à un réseau radio et les règles relatives au covoiturage et à la distribution des licences.

### 2.2.3 *Réglementation des prix*

La réglementation des prix est, dans la plupart des cas, un corollaire aux restrictions quantitatives, c'est-à-dire aux limites imposées à l'accès au secteur. En cas de restrictions à l'entrée, le contrôle des prix limite la capacité des opérateurs historiques à générer des rentes monopolistiques auprès des consommateurs.<sup>4</sup> Dans ces conditions, la réglementation des prix peut être considérée comme de nature essentiellement distributive.

La réglementation sur les prix n'est toutefois pas limitée aux marchés à l'accès restreint. Sur les marchés ouverts, les tarifs peuvent ou non être fixés par le régulateur. Dans les cas où la réglementation est

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<sup>4</sup> Le contrôle des prix limite également la capacité des opérateurs en place à générer des rentes grâce à leur puissance commerciale, même lorsque l'accès au marché n'est pas restreint. Ainsi, dans les cas où le client hèle le taxi dans la rue, le premier véhicule à s'arrêter bénéficie d'une position dominante sur le marché, dans la mesure où le client ne connaît pas le délai d'attente avant l'arrivée du prochain taxi disponible.

la moins stricte, les opérateurs sont uniquement contraints d'informer le régulateur des prix pratiqués (ainsi que le consommateur *via* des mécanismes spécifiques) et peuvent se voir imposer des limites quand au nombre et/ou au calendrier de modifications des prix. A l'inverse, si les prix sont autorisés à varier librement, les structures tarifaires peuvent être réglementées afin de faciliter les comparaisons pour le consommateur.

La nécessité d'un contrôle sur les prix est nettement moins importante sur les marchés ouverts dans la mesure où les opérateurs ne peuvent tirer profit d'une position de monopole. Dans ces conditions, l'adoption de mesures de réglementation des prix sur ces marchés témoigne des difficultés d'information rencontrées par le consommateur, notamment sur les segments des stations de taxis et des taxis hélés dans la rue, et vise principalement à limiter l'asymétrie d'information afin d'encourager l'efficacité du marché.

Dans certains pays, les taxis doivent être affiliés à un réseau radio. Dans la plupart des cas, cette mesure se traduit par une amélioration de la productivité des taxis et de la concurrence sur le segment des centraux téléphoniques<sup>5</sup>. En outre, l'expérience des marchés déréglementés montre que la grande majorité des nouveaux arrivants se concentre sur les segments des stations de taxis et des taxis hélés dans la rue, la plupart d'entre eux n'étant pas affiliés aux réseaux existants et ne donnant naissance qu'à très peu de nouveaux réseaux radio. Dans ces conditions, la réglementation dans ce domaine est généralement considérée comme un moyen d'optimiser les avantages tirés de la suppression ou de la limitation des restrictions quantitatives.

#### 2.2.4 Réglementation quantitative

La plupart des marchés sont caractérisés par une réglementation quantitative (restrictions sur le nombre de licences octroyées). Le régulateur bénéficie généralement d'un pouvoir important sur l'émission des nouvelles licences, avec une réglementation officielle peu fréquente quant à la prise de décision et des critères suffisamment larges pour être ouverts à différentes interprétations. L'expérience montre que l'offre relative de taxis sur les marchés soumis à une réglementation quantitative diminue généralement à terme, tandis que le risque de capture réglementaire constitue une menace majeure.

Du point de vue économique, la réglementation quantitative constitue le seul domaine de préoccupation majeur quant à la garantie de l'efficacité du marché. Par conséquent, la partie suivante analyse en détails les questions liées à la réglementation quantitative. Les parties qui suivent étudient les interactions entre la suppression ou l'allègement des restrictions quantitatives et l'utilisation des autres formes de réglementation évoquées ci-dessus.

### 3. Utilisation de contrôles à l'entrée

Il existe deux grandes catégories d'arguments en faveur de l'utilisation de mesures de contrôle sur le nombre de taxis : les arguments économiques et les arguments non économiques. Les premiers visent à identifier les caractéristiques du marché susceptibles de donner lieu à des défaillances et d'en démontrer l'existence, afin de promouvoir les mesures réglementaires qui pourraient aboutir à de meilleurs résultats du point de vue social. Les principaux problèmes évoqués par les partisans des arguments économiques concernent les difficultés d'information rencontrées par les consommateurs dans les stations de taxis ou dans la rue, ainsi qu'une offre restreinte, notamment dans les stations de taxis, les incertitudes quant à la disponibilité d'autres taxis et les problèmes extérieurs du type embouteillages et pollution.

<sup>5</sup> Notons que des « effets réseau » ont été identifiés sur le marché des centraux téléphoniques, ce qui suppose que des économies d'échelle peuvent être générées pour diverses tailles de réseaux. (Voir NCC (2002) pp 5-18 – 5-19)



Les arguments non économiques en faveur de l'instauration de barrières à l'entrée sont multiples et présentent parfois une similitude avec les arguments économiques, notamment en ce qui concerne les questions des embouteillages et de la pollution et les préoccupations liées à une concurrence multimodale. Parmi les autres craintes évoquées par les défenseurs des arguments non économiques figurent la stabilité du secteur, les revenus des opérateurs, la sécurité et la qualité du service.

Si les arguments d'opposition à la libre entrée sur le marché proviennent à la fois des économistes et des non économistes, il est évident que la majorité des économistes penchent en faveur de la libre entrée, comme en témoignent les résultats d'une enquête récente réalisée auprès de la communauté économique au sujet de la déréglementation des taxis (Moore & Balaker, 2006). Parmi les 28 articles dédiés au sujet, 19 concluent que la libéralisation est positive, deux estiment que ses résultats sont mitigés et sept considèrent qu'elle est nocive. Par ailleurs, les auteurs de l'enquête indiquent que, dans leur ensemble, les publications en faveur de la libéralisation sont de meilleure qualité :

*« ... Les publications concluant à l'impact positif de la déréglementation du secteur des taxis sont les plus complètes, avec des articles couvrant chaque aspect de la question<sup>6</sup>. A l'inverse, la documentation à l'encontre de la déréglementation correspond principalement à de la modélisation. ... Ces articles appuient leurs résultats sur des hypothèses quant aux coûts d'information et de transaction. Les hypothèses retenues dans les publications en faveur de la déréglementation sont souvent plus solides et plus complètes et incluent des mécanismes permettant de surmonter les obstacles liés aux coûts d'information et de transaction ». (Moore & Balaker (2006), p 117).*

Les auteurs de l'enquête analysent également les conclusions sur la déréglementation d'un certain nombre d'articles économiques qui ne sont pas entièrement consacrés à ce sujet. Leur conclusion : après prise en compte de ces publications, l'opinion économique globale est « majoritairement favorable à la déréglementation » (*ibid*, p 126). En outre, l'analyse des publications défavorables à la déréglementation les amène à la conclusion selon laquelle la nature partielle des réformes a empêché dans bien des cas de recueillir les fruits de la libéralisation (*ibid*, p 115), tandis que les aspects de la réglementation favorables à la concurrence et à l'efficacité des marchés ne sont que peu mentionnés.

La partie ci-dessous fournit un résumé critique des principaux arguments à l'encontre de la libre entrée sur le marché.

### **3.1 Arguments défavorables au libre accès au marché**

#### **3.1.1 Arguments liés à la productivité (a)**

L'un des arguments les plus fréquemment évoqués par les opposants à la libre entrée sur le marché est que la productivité moyenne des ressources dédiées à la prestation de services de taxi semble diminuer parallèlement à l'augmentation de l'offre. L'explication : le nombre moyen de kilomètres rémunérés par taxi tend à diminuer lorsque le nombre de taxis augmente, de même que le rapport entre kilomètres rémunérés et non rémunérés.

Cet argument est également présenté de manière plus formelle sur la base de la théorie de la concurrence imparfaite, qui suggère qu'en cas d'existence de charges fixes, le nombre de nouveaux arrivants est trop important sur un marché ouvert, ce qui entraîne une hausse du coût moyen de la

<sup>6</sup> Les auteurs ont classé les articles étudiés en trois catégories : « études théoriques de modélisation », « études théoriques à des fins d'exposé » ou « études empiriques ».

prestation de service. Néanmoins, l'étude OCDE/CEMT (2007, p 157) met en évidence la problématique posée par un tel argument :

*L'argumentation en faveur des restrictions à l'entrée se fonde sur l'opinion communément admise selon laquelle les charges fixes et, partant, les coûts moyens qui diminuent parallèlement à la hausse de la demande, impliquent un « excédent de capacité » : la décision de quitter le marché est déterminée par le fait que les investissements consentis sont irrécupérables. La restriction du nombre de fournisseurs via des barrières à l'entrée entraînerait une meilleure utilisation des capacités et donc une diminution des coûts pour le consommateur. Du point de vue théorique, cet argument est incomplet dans la mesure où il ne tient pas compte de l'effet d'éviction des fournisseurs individuels et de l'augmentation consécutive des coûts liés à la prestation de services de taxi. Les études sur le terrain ont montré que les chauffeurs de taxi indépendants sont soumis à des charges fixes faibles. Par ailleurs, leurs véhicules pouvant être revendus sur le marché de l'occasion pour être utilisés à d'autres fins, les coûts irrécupérables sont généralement marginaux.*

Dans les faits, l'argument de « l'excédent de capacité » est donc négligeable compte tenu du faible niveau des coûts irrécupérables. D'autres analyses ont en outre mis en évidence l'interdépendance entre le délai d'attente et la demande au sein du secteur : la valeur du service de taxi augmente aux yeux du consommateur au fur et à mesure que le délai d'attente diminue. « L'excédent de capacité » a donc une incidence positive et l'augmentation de l'offre induit une augmentation de la demande. Cet « effet de densité » suggère que la hausse du nombre de taxis peut, dans une certaine mesure, bénéficier à la fois aux prestataires et aux consommateurs. Conséquence : des appels à la subvention des services de taxi (Arnott (1996)), en vue d'atteindre un niveau de densité optimum fondé sur le fait que, du point de vue du consommateur, l'augmentation de l'offre est synonyme de diminution du délai d'attente<sup>7</sup> (Liston-Heyes & Heyes, OCDE/CEMT (2007), pp 100-103) – soit une conséquence directement opposée à l'argument en faveur de la restriction de l'accès au marché.

S'il est fondé en théorie, l'argument en faveur des subventions ne va pas sans risques du point de vue pratique. Il convient notamment de veiller à ce que les mesures incitatives soient conçues de façon que les subventions n'entraînent pas une hausse des coûts (au niveau des salaires par exemple) au lieu d'encourager l'augmentation de l'offre. Par ailleurs, au vu des multiples antécédents de détournement de la réglementation au sein du secteur, il existe un risque que les efforts des groupes de pression aboutissent à des subventions d'un niveau injustifié et à un nombre trop important de nouveaux arrivants sur le marché.

### 3.1.2 Arguments liés à la productivité (b)

Autre argument lié à la productivité et avancé notamment par Schreiber (1975 – cité par Ho (1993))<sup>8</sup>, l'augmentation du nombre de taxis induit un détournement de la demande d'autres moyens de transports plus économiques vers les services de taxi. Ce point de vue s'appuie sur l'observation selon

<sup>7</sup> Un argument similaire a été formulé dans le contexte des services de bus. Connu sous le nom de « l'effet Mohring », cet argument s'appuie sur le principe selon lequel l'augmentation de la demande entraîne une augmentation de la fréquence du service, diminuant ainsi le délai d'attente moyen (ou attendu) pour les utilisateurs. Pour ces derniers, la réduction du délai d'attente est une externalité positive, qui justifie une subvention : la réduction des tarifs (permise par l'augmentation des subventions de l'État) suscite l'augmentation nécessaire de la demande pour faire passer le marché d'une situation d'équilibre (sans intervention) à un résultat optimal.

<sup>8</sup> Schreiber, à l'instar de Ho, préconise également à l'État de capturer la rente associée à la restriction du nombre de licences de taxi en instaurant, sur chaque licence, une taxe annuelle correspondant à la valeur de cette rente.

laquelle le tarif des transports publics est généralement supérieur à leur coût marginal, ainsi que sur l'argument suivant : à moins que l'écart entre le prix de la course en taxi/le prix du titre de transport public et le coût marginal ne soit identique, les consommateurs privilégieront le taxi.

Néanmoins, la limitation du nombre de taxis et l'augmentation des tarifs semblent constituer une solution peu adaptée au problème de tarification des transports en commun.

### 3.1.3 *Impact sur la circulation et la pollution*

Parmi les arguments les plus fréquemment cités par les opposants à la libre entrée sur le marché des taxis figurent notamment la pollution et les embouteillages, qui constituent des problèmes d'externalités inhérents à l'activité des taxis. Selon eux, l'existence de ces externalités négatives signifie que l'offre de taxis sur un marché libre serait supérieure à l'offre optimale. Du point de vue du trafic, un plus grand nombre de taxis passerait donc plus de temps à circuler à la recherche de clients, augmentant ainsi les problèmes de circulation.

Toutefois, d'autres estiment que l'augmentation de l'offre de taxis permettrait de *réduire* la circulation : en garantissant la disponibilité des taxis avec des délais d'attente raccourcis, le renforcement de la densité des taxis pourrait décourager l'utilisation des véhicules privés dans les centres-villes et avoir ainsi un impact positif tant en termes de pollution que de circulation (Liston-Heyes & Heyes (OCDE/CEMT (2007) p 103)). L'amélioration de la circulation figure parmi les objectifs de la réforme du secteur des taxis votée en 2000 aux Pays-Bas, qui visait à faciliter l'accès au marché et à promouvoir l'utilisation des taxis.

Il est intéressant de constater que les arguments indiquant que l'augmentation du nombre de taxis aurait un impact négatif sur la circulation ne s'accompagnent que très rarement d'exemples chiffrés. Les chiffres tendent en effet à démontrer à quel point cet impact est marginal : ainsi, Melbourne (Australie) compte environ 2 millions de véhicules particuliers et près de 3 200 taxis. Si le nombre de taxis circulant dans Melbourne venait à tripler (conséquence probable de la libéralisation du marché), leur flotte passerait à 6 400 véhicules soit 0,3 % du total actuel des véhicules en circulation. Même dans l'hypothèse où ces taxis couvrent 10 fois la distance moyenne parcourue par un véhicule particulier, l'augmentation du total brut de kilomètres parcourus ne s'élèverait qu'à 3 %<sup>9</sup>. Étant entendu que l'augmentation de l'offre et de la densité de taxis décourage l'utilisation des véhicules privés, cette augmentation serait largement compensée, ce qui démontre que l'impact de l'augmentation ou de la réduction du nombre de taxis est relativement limité.

Les embouteillages et la pollution constituent des problèmes d'externalités inhérents à l'utilisation de tout type de véhicules à moteur et ne sont pas propres aux taxis. Par conséquent, les mesures politiques adoptées pour pallier ces difficultés doivent couvrir l'ensemble de la flotte de véhicules motorisés sans se limiter à un seul secteur relativement restreint, sans quoi leur impact serait faussé. De surcroît, d'autres mesures réglementaires moins lourdes peuvent également être envisagées pour certaines zones spécifiques comme les aéroports.

Les points évoqués ci-dessus permettent de penser que les arguments relatifs à la circulation et à la pollution n'ont qu'une incidence limitée sur la législation relative au secteur des taxis. Il est néanmoins intéressant de noter que si cette variable n'est absolument pas prise en compte, la plupart des arguments théoriques à l'encontre de la libéralisation du secteur des taxis semblent s'évanouir.

<sup>9</sup> Néanmoins, ces arguments mettent parfois en évidence des conséquences spécifiques au niveau des aéroports et d'autres lieux où la demande de taxis est élevée.

### 3.1.4 *Arguments liés à la répartition*

L'argumentation en faveur de la restriction de l'accès au marché repose parfois sur l'intérêt des chauffeurs de taxis. Selon les opposants à la libre entrée sur le marché, si la demande de taxis est très cyclique, l'offre de services de taxi sur un marché ouvert est fortement anticyclique. Cette observation est fondée sur le faible niveau des barrières à l'entrée, ainsi que sur le faible niveau de compétences nécessaire pour conduire un taxi. Ainsi, pour les chauffeurs de taxis expérimentés, la baisse de revenus sensible qui serait de toute façon intervenue en période de ralentissement économique est exacerbée par les nouveaux arrivants sur le marché.

Cet argument est valable pour tous les secteurs caractérisés par la libre entrée et un faible niveau de compétences nécessaires au niveau de la main-d'œuvre. De manière générale, les économies de marché rejettent l'idée selon laquelle l'accès à un emploi doit être restreint pour préserver le niveau de revenus des travailleurs en place. Or l'argument selon lequel le secteur des taxis est particulièrement vulnérable aux fluctuations cycliques de la demande ne justifie pas une exception à cette règle.

Par ailleurs, l'analyse des marchés à l'accès restreint révèle que les revenus des chauffeurs ne sont pas supérieurs – et peuvent même être inférieurs – à ceux de leurs homologues sur les marchés ouverts (NCC (2002)). L'échec des barrières à l'entrée à protéger à long terme les revenus des chauffeurs de longue date découle de leur propension à entraîner une hausse sensible des tarifs, voire à encourager la création d'offres concurrentes sur des marchés connexes<sup>10</sup>.

### 3.1.5 *Impact sur la qualité de service*

De nombreux opposants estiment que le libre accès au marché des taxis entraîne une baisse de la qualité de service, tant du point de vue des véhicules et de leur entretien que des chauffeurs, qui peuvent pâtir d'un manque de connaissances géographiques ou linguistiques ou d'un sens commercial limité. Cet argument s'articule autour de deux axes majeurs.

Le fondement de cet argument est le suivant : la baisse du taux d'utilisation des véhicules engendre une baisse des revenus et une incapacité à financer un service de haute qualité. Le même argument peut être présenté de manière à encourager la « stabilité » au sein du secteur. La stabilité est en effet considérée comme le socle indispensable à la prestation de services de haute qualité. Selon cette théorie, le consommateur est avantagé par l'existence d'un marché caractérisé par la prédominance d'opérateurs établis de longue date qui, s'ils sont autorisés à maintenir un niveau de rentabilité « adéquat », proposent un service plus performant et de meilleure qualité. À l'inverse, l'arrivée sur le marché d'opérateurs ayant une vision à court terme nuit à la capacité des opérateurs en place à fournir un service de meilleure qualité, même s'il s'agit là d'un souhait apparemment exprimé par les consommateurs.

Ce dernier argument n'explique toutefois pas pourquoi les nouveaux arrivants « opportunistes » seraient plus réticents à proposer un service de qualité s'il s'agit bien de la demande des consommateurs.

Le réel problème de cet argument, c'est qu'il ne tient pas compte du fait que l'aspect quantitatif et l'aspect qualitatif de la réglementation peuvent être traités séparément et que la suppression des restrictions quantitatives ne signifie pas que les autorités de tutelle doivent abandonner toute prérogative en matière de réglementation de la qualité de service. L'expérience montre en effet que le besoin de réglementation qualitative est aussi élevé au sein d'un marché à l'accès restreint que dans un marché ouvert. Ainsi, l'expérience de plusieurs agglomérations américaines ayant opté pour la libéralisation a montré que

<sup>10</sup> Ainsi, lorsque l'entrée sur le marché est très réglementée, il est fréquent qu'un marché parallèle dynamique de véhicules de location se développe.

l'assouplissement des prescriptions réglementaires en matière de qualité de service qui a accompagné l'ouverture du marché était souvent à l'origine d'échecs (NCC (2002), p 5-3). Du point de vue théorique, l'entrave à la concurrence qui accompagne inévitablement l'instauration de barrières à l'entrée implique que la motivation à proposer un service de haute qualité sera moins forte au sein d'un marché à l'accès restreint.

### 3.1.6 *Synthèse*

De manière générale, les opposants à la libre entrée sur le marché semblent beaucoup plus préoccupés par les risques de surcapacité et de baisse des revenus à court terme sur les marchés ouverts (plus particulièrement à la suite de la libéralisation) qu'ils ne le sont par les problèmes persistants de hausse du prix de la course et de délais d'attente sur les marchés réglementés. Nombre de ces arguments sont présentés de manière à suggérer une incapacité des pouvoirs publics à adopter une approche privilégiant l'intérêt général (ou fondée sur le rapport bénéfices/coûts), alors que les coûts susceptibles d'être générés par une restriction de l'accès au marché sont largement sous-estimés.

## 3.2 *Arguments favorables au libre accès au marché*

Dans la partie précédente, nous avons vu que les arguments favorables à la restriction de l'entrée sur le marché des taxis sont vivement contestés du point de vue théorique et qu'ils représentent un point de vue minoritaire dans les ouvrages économiques tout du moins, même s'ils bénéficient peut-être d'un soutien plus marqué dans d'autres cercles. Néanmoins, même si la théorie selon laquelle les restrictions à l'entrée peuvent servir l'intérêt général est démontrée, elle ne suffit pas à justifier une intervention réglementaire de ce type. Comme l'indiquent Liston-Heyes et Heyes (OCDE/CEMT (2007)), dans la sphère économique, les opposants à la libre entrée sur le marché doivent justifier leur position discordante avec le principe du libre échange. Dans le contexte de la présente étude, ces opposants doivent faire la preuve que l'adoption de barrières réglementaires à l'entrée pourrait entraîner des résultats plus proches de l'optimum que dans le cadre d'un marché ouvert. Cette contrainte supplémentaire reflète simplement le consensus – même parmi les partisans d'une certaine restriction de l'offre – selon lequel une restriction abusive de l'offre aurait des conséquences néfastes pour l'intérêt général.

À cet égard, trois préoccupations majeures se distinguent : 1) Le niveau « optimum » de l'offre de taxis peut-il être identifié de manière fiable ? 2) L'information disponible est-elle suffisante et peut-elle être traitée par les autorités de tutelle pour permettre la mise en œuvre du modèle ? 3) Une fois le niveau d'entrée « optimum » défini, peut-il être mis en exécution par les autorités ? Les paragraphes suivants sont consacrés à chacune de ces questions.

### 3.2.1 *Modélisation de l'offre de taxis optimale*

Comme on le verra, les autorités de tutelle n'ont que rarement recours à des critères de décision objectifs pour déterminer le nombre de licences de taxis accordées. Or si aucun critère de décision explicite n'est utilisé, il est peu probable que le nombre de licences octroyées corresponde exactement au niveau optimum de l'offre. La question est donc de savoir s'il existe des modèles capables d'évaluer avec précision le niveau optimal de l'offre. Un petit nombre d'auteurs ont tenté de mettre au point ces critères objectifs, mais l'analyse de ces modèles laisse à penser qu'ils sont d'une utilité pratique limitée. Nous avons retenu trois modèles :

Schaller (2005) a modélisé la demande de taxis grâce à une analyse de régression fondée sur sept variables. Il en conclut que les trois principaux facteurs qui déterminent la demande de taxis sont le nombre de travailleurs utilisant le métro, le nombre de ménages qui ne possèdent pas de véhicule et le nombre de courses pour l'aéroport. Il explique :

*L'estimation du nombre de taxis correspond à la réalité dans les agglomérations qui, selon les autres informations disponibles, semblent être pourvues d'un nombre suffisant de taxis. (Schaller (2005) p 73). [souligné par nous]*

Néanmoins, après avoir reconnu que les autorités de tutelle n'appliquent généralement pas de critères explicites pour déterminer le nombre de licences de taxis octroyées, Schaller ne fournit aucune explication sur la manière dont ces autorités, dans un grand nombre des agglomérations étudiées (où l'accès au marché est retreint), ont réussi à faire en sorte que l'offre réelle de taxis corresponde aux résultats du modèle. En outre, si les autorités de tutelle sont capables, pour une part significative, de déterminer le nombre « adéquat » de taxis en l'absence d'un modèle logique, l'utilité d'un tel modèle est remise en question.

Schaller ne fournit aucun détail quant aux autres informations disponibles utilisées pour déterminer quelles agglomérations étaient « suffisamment » pourvues en taxis et quelles sont celles qui sont en situation de « pénurie » ou « d'excédent ». Il est donc possible de se demander si le nombre « adéquat » de taxis n'aurait pas été défini de manière à accentuer l'efficacité du modèle.

Schaller indique également que les agglomérations pour lesquelles le modèle fonctionne et celles pour lesquelles il ne fonctionne pas incluent à la fois des marchés ouverts et des marchés restreints. Cette seule remarque semble saper son argumentation en faveur des barrières à l'entrée. Par ailleurs, il est possible d'avancer que les marchés ouverts affectés par une offre excédentaire se trouvent en situation de déséquilibre et sont soumis à des mécanismes de marché qui entraîneront un ajustement de l'offre. En revanche, les marchés à l'accès restreint affectés par une pénurie de taxis ne pourront pas bénéficier de tels mécanismes d'autorégulation. En conclusion, le modèle de Schaller et ses résultats ne semblent pas aller véritablement dans le sens d'une restriction de l'offre et encore moins de l'utilisation de ce modèle.

Ho (1993) propose un modèle plus formel permettant de déterminer l'offre optimum de taxis et estime que l'application de critères de décision explicites peut « améliorer la probabilité de réussite de la réglementation » en limitant les possibilités de détournement et, partant, la généralisation de « comportements non productifs visant à générer des rentes ». Le modèle de Ho est fondé sur les éléments suivants :

*«...relier les différentes composantes du prix de la course aux coûts économiques et déterminer conjointement la composante fixe par course et le prix annuel de la licence. »*

Ho estime qu'en fixant le prix de la course et l'offre de taxis à leur niveau optimum, les détenteurs de licences sont en mesure de percevoir une rente. L'État doit alors s'approprier cette rente en vendant le nombre de licences annuelles calculé par le modèle, selon le prix également calculé par le modèle. Le prix optimum de la course est également fixé sur une base annuelle et doit être connu par tout acquéreur potentiel d'une licence.

L'argument de Ho selon lequel une rente est généralement perçue par chaque taxi lorsque l'offre et le prix de la course sont fixés à leur niveau « optimum » repose sur la prise en compte d'un facteur externe, lié à l'impact de la circulation des taxis disponibles sur le trafic et la pollution. Ainsi, lorsque l'augmentation du nombre de taxis tend à faire grimper la valeur des services de taxi en raccourcissant les délais d'attente, elle réduit parallèlement la valeur desdits services en aggravant la pollution et les embouteillages.

Ho n'a pas mis son modèle à l'épreuve à l'aide de données spécifiques, ce qui ne permet pas d'évaluer quelles mesures il préconise dans la pratique. En théorie, son modèle devrait fournir un mécanisme capable de limiter, en un certain sens, les possibilités de détournement de la réglementation visant à imposer des restrictions « abusives » au niveau de l'offre. Cela étant, l'intervention des groupes de pression pour

l'adoption de coefficients élevés (négatifs) au niveau des variables relatifs aux embouteillages et à la pollution au sein du modèle se traduirait par une réduction de l'offre de taxis. Dans ce cas, les opérateurs parviendraient toujours à percevoir une rente si les licences ne sont pas distribuées selon les recommandations de Ho ou si les prix fixés pour les licences annuelles sont trop bas.

En outre, ce modèle pose un problème déjà abordé au paragraphe 3.1, à savoir qu'il invoque les facteurs liés à la circulation et à la pollution pour justifier la restriction de l'offre. Une approche préférable consisterait à autoriser le libre accès au secteur des taxis tout en instaurant une taxe sur l'ensemble des véhicules motorisés, ce qui permettrait d'internaliser ces problèmes d'externalités.

Yang *et al* (2003) proposent un autre modèle qui montre que, dans un marché où ni les tarifs ni l'accès ne sont réglementés, l'optimum social – défini comme le point auquel l'excédent total (prestataires plus consommateurs) est à son maximum – intervient à un niveau où les bénéfices des opérateurs sont négatifs (dans la mesure où les revenus couvrent exactement le coût des trajets occupés mais ne couvrent pas les trajets inoccupés). Ce modèle diffère donc des deux modèles précédents puisqu'il suggère que le libre accès au marché entraînera une pénurie de taxis.

Les auteurs de cette théorie proposent une seconde solution, fondée sur un « profit minimum nul », sans reconnaître toutefois que leur première solution semble aller dans le sens de l'argument selon lequel les services de taxi devraient être subventionnés pour garantir des résultats optimum<sup>11</sup>.

En résumé, deux des trois modèles présentés ci-dessus préconisent une restriction de l'accès au marché, alors que le troisième penche, tout du moins de manière implicite, en faveur des subventions. Les deux premiers modèles posent de sérieux problèmes de méthodologie. Ces problèmes, couplés à la forte probabilité d'un détournement de la réglementation en cas de restrictions à l'entrée, laissent à penser que la possibilité pour une réglementation restrictive d'aboutir à des résultats supérieurs à ceux d'un marché ouvert est minime dans la pratique, même si elle est plausible en théorie. Dans ces conditions, la libre entrée sur le marché doit être envisagée comme la deuxième solution la plus adaptée, même par ceux qui estiment qu'il ne s'agit pas de la solution idéale.

### 3.2.2 Problèmes d'information

La plupart des ouvrages consacrés à la réglementation du secteur des taxis mettent en lumière les problèmes d'information auxquels sont confrontées les autorités de tutelle, ainsi que l'absence générale de critères de décision objectifs en matière d'octroi des licences. L'analyse des sept variables citées par Schaller dans son modèle évoqué ci-dessus témoigne du vaste champ de données nécessaires à la prise de décisions judicieuses. D'autres variables d'une importance égale peuvent aisément être ajoutées, telles que le niveau de revenus et les politiques en vigueur en matière de conduite en état d'ivresse. Schaller lui-même a identifié plusieurs facteurs susceptibles d'intervenir en tant que variables indépendantes, parmi lesquels le coût et la disponibilité de parcs de stationnement, le délai d'attente, la qualité du service, la demande de programmes spécifiques pour les personnes âgées et handicapées et la conduite de berlines quatre portes. Il souligne toutefois que ces données ne sont pas disponibles.

Par ailleurs, les données utilisées, quelles qu'elles soient, doivent être constamment actualisées et analysées de manière à pouvoir ajuster régulièrement les décisions relatives à l'offre afin de se rapprocher de l'optimum théorique à terme. Or une telle procédure nécessite d'importantes ressources, ce qui signifie

<sup>11</sup> Une situation d'équilibre théorique entraînant des bénéfices négatifs pour les opérateurs pourrait être atteinte dans la pratique si un plan de subventions *ad hoc* est mis en œuvre afin de compenser les pertes sans fausser les mesures incitatives offertes aux opérateurs et aux consommateurs.

qu'elle risque d'être réalisée de manière irrégulière et inappropriée dans la pratique. Beesley et Glaister (1983) expliquent :

*« Au vu de la complexité d'un tel raisonnement, il est logique de se demander si la réglementation peut améliorer l'intérêt général. Les autorités de tutelle sont dépendantes d'informations limitées ». (cités dans Moore & Balaker (2006))*

En présentant son modèle de prise de décision, Schaller souligne le caractère peu satisfaisant des critères utilisés dans la pratique par les autorités de tutelle pour déterminer le nombre de licences de taxis dans les cas où ces dernières sont soumises à des restrictions réglementaires :

*Plusieurs méthodes sont utilisées dans les agglomérations et les comtés américains en vue de déterminer le nombre de licences de taxis. La méthode la plus simple (et la plus arbitraire) consiste à geler le nombre de taxis en circulation au moment de la prise de décision. C'est cette politique qui a été adoptée à Boston, Chicago, New York et dans d'autres grandes villes au cours des années 30. Une autre approche répandue consiste à demander aux compagnies de taxis de faire la preuve de la « nécessité et de l'utilité publique » d'une augmentation du nombre de taxis. Parfois, ce critère est associé à un examen périodique qui peut conduire à une expansion régulière du secteur parallèlement à l'augmentation de la demande. Dans la même optique, certaines agglomérations fondent leurs calculs sur le rapport entre le nombre de taxis et un indice basé sur le nombre d'habitants, le nombre de trajets en taxi ou d'autres facteurs ». (2005, p 64)*

À l'évidence, un gel de plus de soixante-dix ans du nombre de taxis en circulation constitue la décision la plus aberrante que l'on puisse imaginer et, sans nul doute, celle qui a l'impact social le plus négatif. Le critère de la « nécessité et de l'utilité publique » n'apporte quant à lui qu'une aide pratique limitée aux pouvoirs publics et le pouvoir discrétionnaire qui en résulte est synonyme d'un risque majeur de détournement de la réglementation, pour les raisons citées ci-dessus. Des évaluations périodiques n'ont que peu de probabilités de permettre « l'expansion du secteur parallèlement à l'augmentation de la demande », l'issue étant principalement déterminée par le cadre de référence fourni et les méthodes utilisées.

L'absence de critères de décision objectifs pouvant être utilisés par les autorités de tutelle s'explique notamment par le fait que de nombreux dispositifs réglementaires qui restreignent l'offre de taxis dans la pratique ne témoignent pas explicitement d'une volonté de pratiquer ces restrictions en vue de parvenir à un niveau de capacités optimum<sup>12</sup>. La législation a plutôt pour seul objectif initial de garantir le respect des normes de qualité par les nouveaux arrivants sur le marché, afin d'appliquer les restrictions sur l'offre par suite de détournements de la réglementation. Dans une telle situation, la probabilité de l'adoption de critères de décision objectifs et explicites est encore plus infime.

### 3.2.3 Mise en œuvre pratique du niveau optimal de l'offre

Même si les autorités de tutelle étaient en mesure de déterminer de manière objective le niveau optimum de l'offre de services de taxi, les incertitudes persistent quant à la mise en pratique de cette offre. En privilégiant l'intervention réglementaire pour définir l'offre, au lieu de laisser agir les mécanismes de marché, les autorités s'exposent en effet à un risque majeur de détournement de la réglementation.

La réglementation du secteur des taxis implique nécessairement un risque élevé de détournement, et ce, pour plusieurs raisons. Tout d'abord, les détournements de la réglementation passent pour plus

<sup>12</sup> Cette question est analysée ci-après.



fréquents dans les situations où les parties pénalisées par de mauvaises réglementations sont nombreuses mais ne subissent que des coûts peu élevés sur le plan individuel (plus particulièrement s'ils ne sont pas très visibles), tandis que les parties gagnantes constituent un groupe restreint et solidaire partageant des intérêts communs et où chacun est fortement avantagé par la réglementation. Or c'est exactement le cas du secteur des taxis. En règle générale, les consommateurs ne font pas pression sur les autorités de tutelle pour faire baisser le prix de la course ou accroître le nombre de taxis, particulièrement s'il s'agit de ménages à faibles revenus ne possédant pas de véhicule et d'hommes d'affaires ayant recours aux notes de frais. Dans un tel cas de figure, les autorités de tutelle tendent à plier, peut-être de bonne foi, face aux pressions exercées par les acteurs du secteur en faveur d'une hausse des tarifs et de l'instauration de barrières à l'entrée.

Ensuite, dans de nombreux pays, la réglementation du secteur des taxis est assurée par une autorité de tutelle spécifique. Or il s'agit également d'un facteur de risque majeur en termes de détournement de la réglementation (OCDE (2002), p 97).

Enfin, il est unanimement reconnu que le niveau d'information nécessaire pour une réglementation efficace du secteur des taxis est élevé, notamment en ce qui concerne le taux de rotation au sein du secteur. Souvent, les autorités de tutelle ne veulent pas ou ne peuvent pas investir les ressources nécessaires pour collecter les informations indispensables à l'établissement de la réglementation. Le travail d'analyse nécessaire peut également poser des difficultés. Enfin, les problèmes d'application de la réglementation, notamment par les opérateurs de petite taille, aggravent encore une situation déjà complexe. Dans ces conditions, les autorités de tutelle optent souvent pour des approches alternatives, en fondant notamment leurs décisions sur les éléments les moins sujets à controverse du point de vue politique. Le secteur des taxis a tendance à être très actif politiquement, ce qui peut accentuer les pressions sur les décideurs administratifs. (OCDE/CEMT (2007), p 104).

Au vu des raisons détaillées ci-dessus, il semble *a priori* qu'une réglementation restrictive quant à l'accès au marché pourrait être détournée, le choix des autorités de tutelle penchant pour un ralentissement (voir un arrêt) de la croissance de l'offre. Si tel est le cas, l'application de restrictions sur l'offre constitue un mécanisme efficace pour atteindre les objectifs du secteur par la voie réglementaire. Même s'il est admis qu'il existe un niveau optimum de restriction de l'offre, dans les cas de détournement de la réglementation, la portée des restrictions imposées par les autorités de tutelle tend à être trop importante et donc à œuvrer à l'encontre de l'intérêt général plutôt qu'en sa faveur. Dans la partie suivante, nous présentons des données empiriques démontrant l'existence, dans la pratique, de ce type de dynamiques réglementaires.

Compte tenu de ces dynamiques réglementaires, l'utilisation d'un modèle ou de critères de décision pour la fixation de l'offre de taxis revêt un avantage réel dans la mesure où elle contribue à diminuer les risques de détournement de la réglementation en fournissant un cadre décisionnel plus strict aux autorités de tutelle. Cependant, même si ces modèles permettent de clarifier les informations nécessaires et de définir leur mode d'analyse, un travail important de collecte et d'analyse des données reste nécessaire et constitue à ce titre un obstacle majeur à la définition du niveau optimal de l'offre à terme.

### 3.2.4 Gestion des restrictions de l'offre – un exemple de détournement de la réglementation ?

La question de la gestion pratique des restrictions appliquées à l'offre joue un rôle clé dans la problématique du détournement de la réglementation. Les ouvrages consacrés à la réglementation du secteur des taxis accordent une importance particulière au mode de gestion de ces restrictions dans les cas où elles sont appliquées. Certains auteurs estiment que les moyens d'allocation des licences de taxi sur un marché caractérisé par une offre restreinte ont une influence déterminante sur les performances globales du marché.

La majorité des marchés à l'accès restreint semblent utiliser les licences permanentes comme outil de base pour déterminer les opérateurs autorisés à opérer sur le marché. Ces 20 dernières années, de nombreuses agglomérations ont modifié leur réglementation afin que ces licences permanentes puissent être transférées librement. Cette réforme est conforme à la théorie économique, selon laquelle le libre échange d'un facteur de production garantit son utilisation à sa valeur la plus élevée.

Toutefois, plusieurs voix se sont fait entendre pour évoquer des problèmes majeurs résultant du libre échange des licences de taxis. Dans certains cas, il a même été recommandé de mettre un terme aux transferts de licences. Le principal souci : lorsqu'il est associé à une approche très restrictive à l'égard de la délivrance de nouvelles licences, le développement d'un marché libre des licences de taxi entraîne une augmentation sensible de leur valeur. Or plus la valeur de la licence est élevée, plus l'intérêt des opérateurs en place est de s'opposer à toute réforme de la réglementation et plus les efforts visant à faciliter les réformes en dédommageant les opérateurs historiques deviennent coûteux.

Si les restrictions imposées à l'offre par la réglementation tendent à générer des rentes de monopole au sein du secteur des taxis, l'État doit chercher à se les approprier plutôt qu'elles ne soient perçues à titre de revenus exceptionnels par les opérateurs historiques. Comme on l'a vu, plusieurs auteurs dont Schreiber (1975) et Ho (1993) estiment que l'État peut s'approprier ces rentes en délivrant des licences de taxis annuelles et non plus permanentes, le prix des licences annuelles étant déterminé sur la base du calcul de la rente générée par l'exploitation efficace de la licence.

Du point de vue des détournements de la réglementation, un mécanisme d'allocation des licences permettant à l'État de conserver les rentes disponibles plutôt que de les octroyer aux opérateurs historiques en tant que revenus exceptionnels diminue sensiblement la motivation de ces derniers à faire pression pour durcir les restrictions à l'entrée, tout en évitant les cas de figure où l'État hésiterait à diminuer ou à éliminer ces restrictions en craignant d'occasionner des pertes aux opérateurs en place. Le fait que ces mécanismes soient rarement utilisés dans la pratique peut être considéré comme une preuve supplémentaire de la forte probabilité que toute tentative de réglementation de l'offre de taxis soit immanquablement synonyme de détournements de la réglementation.

### 3.2.5 *Coûts supplémentaires inhérents aux barrières à l'entrée*

Les parties précédentes présentent des arguments solides à l'encontre de la réglementation de l'offre de taxis, tant du point de vue théorique que pratique. D'autres conséquences potentiellement négatives de la réglementation de l'accès au marché des taxis peuvent également être mises en avant. Selon la théorie économique, la restriction de l'entrée sur un marché entraîne une baisse de la concurrence, ce qui pèse sur l'innovation au sein du secteur et sur le développement de nouveaux produits répondant de manière plus efficace aux attentes des consommateurs. Les pays où l'accès au marché est réglementé tendent également à contrôler les pratiques du marché de manière plus étroite que les pays prônant la libre entrée, renforçant ainsi cette tendance générale.

Si l'on étend cette analyse au-delà du secteur des taxis proprement dit, certains observateurs estiment que la réduction de la capacité des prestataires de services de taxi à répondre à la demande des consommateurs pourrait inciter ces derniers à se détourner du taxi pour privilégier d'autres moyens de transport, tels que les voitures de location, les autres moyens de transport public (trains, tramways et bus) et les véhicules individuels.

Un tel phénomène de substitution, lié aux conséquences des restrictions à l'accès au marché, pourrait également créer des distorsions et nuire à l'intérêt général. En Australie, le *National Competition Council* a publié des chiffres témoignant de la contraction sensible des parts de marché du secteur des taxis au sein de l'industrie des services de transport. Ainsi, à Melbourne en 1998, le nombre annuel de trajets en taxi avait

chuté de 8.5 % sur 15 ans, parallèlement à une augmentation de 30 % des trajets en train et d'un rebond sensible des achats de véhicules par les particuliers. A Perth, la demande de taxis de la part des entreprises a diminué de plus de deux tiers au cours des années 90. Selon le NCC, la baisse de l'utilisation des taxis s'explique par les barrières élevées à l'entrée maintenues pendant de longues années et pourrait avoir des conséquences négatives du point de vue social (NCC (2002), pp 5-7 – 5-8).

#### **4. Conséquences concrètes de la réglementation et de la libéralisation**

Les parties précédentes ont analysé la question de la réglementation du secteur des taxis sur le plan théorique. La partie qui suit s'attache à compléter cette analyse en examinant les résultats concrets obtenus par la réglementation dans différents pays, ainsi que les conséquences des initiatives de libéralisation du secteur. L'un des principaux enjeux est de déterminer si la restriction de l'accès au marché est automatiquement synonyme de détournement de la réglementation. Alors que la partie précédente démontrait comment, en théorie, la réglementation du secteur des taxis tend à entraîner d'importants détournements de la réglementation, le présent chapitre apporte des exemples concrets observés dans divers pays. Il convient néanmoins de noter que certains marchés ayant d'importants antécédents en matière de restriction de l'accès au marché continuent d'afficher des prix relativement faibles pour les licences de taxis, signes de restriction limitée de l'offre.

##### **4.1 Objectifs de la législation et application pratique**

L'un des aspects les plus marquants de la législation destinée à définir les systèmes d'octroi de licences et accordant un pouvoir discrétionnaire aux ministères quant à leur émission est qu'il n'est généralement pas fait explicitement mention d'un objectif de limitation de l'offre de taxis. Dans la plupart des cas, ce pouvoir discrétionnaire est justifié comme un moyen de garantir que tous les nouveaux entrants sur le marché répondent aux critères de qualité définis par la loi.

C'est cet aspect de la loi qui a abouti à la libéralisation du secteur des taxis en Irlande, les tribunaux ayant statué que, dans les cas où le ministère n'était pas explicitement habilité à contrôler le nombre total de taxis en circulation, l'exercice de l'autonomie législative sur la délivrance des licences de manière à limiter l'offre de taxis constituait un abus de pouvoir. Dans l'affaire Humphrey contre le ministère de l'environnement et l'administration locale (2000), le tribunal a déclaré :

*... en limitant l'offre pour des motifs non associés aux normes de qualité des véhicules et des chauffeurs, le ministère a abusé du pouvoir discrétionnaire qui lui a été accordé par l'article 82 de la loi 1961. Une restriction quantitative entrave non seulement le droit des citoyens à travailler au sein d'un secteur pour lequel ils sont qualifiés mais également le droit des consommateurs à bénéficier des services de taxi, tout en freinant le développement du secteur des taxis lui-même.*

*Toute réglementation qui restreint le nombre de véhicules à usage public contredit le principe même de service public. Il incombe évidemment à l'autorité de tutelle concernée de mettre en avant le critère de qualité comme la base ou le minimum nécessaire pour délivrer une licence de taxi ou un permis de conduire. La loi de 1961 ne prévoit pas la restriction de l'offre comme un moyen de faire appliquer les normes. Par ailleurs, aucun critère de ladite loi ni de la réglementation ne peut être utilisé pour définir le nombre de nouvelles licences à accorder.*

Le raisonnement qui sous-tend cette décision peut être appliqué à toute législation qui, tout en octroyant à un ministère ou à tout autre autorité le pouvoir de rejeter les demandes de licence, n'autorise pas explicitement l'utilisation de ce pouvoir dans le but de limiter le nombre total de licences. Ainsi, l'analyse de la législation relative à la délivrance des licences de taxi dans les grandes agglomérations

australiennes révèle qu'il n'existe aucune mention explicite d'une restriction de l'offre en tant que telle<sup>13</sup>, à l'instar de la législation irlandaise.

On peut donc penser que la légitimité du socle législatif sur lequel sont fondés nombre de systèmes existants permettant de réglementer l'accès au secteur des taxis pourrait être remise en cause. S'agissant du risque de détournement de la réglementation, l'utilisation d'une loi qui n'encourage pas explicitement la restriction de l'offre de taxis à un niveau inférieur au niveau d'équilibre d'un marché ouvert constitue un argument de poids en faveur de possibles détournements réglementaires.

#### 4.2 *Données historiques sur la réglementation de l'offre de taxis*

Les chiffres révèlent qu'une fois appliquée, la réglementation limitant l'accès au marché tend à être mise en œuvre de manière à augmenter progressivement le degré effectif de restriction de l'offre (c'est-à-dire l'écart entre l'offre de taxis et le niveau d'équilibre obtenu en situation de marché ouvert). Cette tendance va clairement dans le sens d'un risque de détournement de la réglementation.

Le creusement de l'écart entre offre effective et niveau d'équilibre en situation de marché ouvert est illustré à la fois par la baisse du nombre de taxis par unité de population et par l'augmentation des prix des licences sur les marchés où ces dernières peuvent être échangées. Les licences n'ayant aucune valeur intrinsèque, leur valeur d'échange représente en totalité la valeur capitalisée du flux attendu de rentes de monopole pouvant être tirées de leur exploitation.

Par exemple, les chiffres australiens montrent une baisse du nombre de taxis par unité de population sur plusieurs dizaines d'années dans un certain nombre de grandes agglomérations. A Brisbane, le nombre de taxis pour 10 000 habitants a diminué de plus de la moitié, passant de 19.8 en 1960 à 9.8 en 1999. A Melbourne, ce nombre a chuté de 12.3 en 1951 à 9.6 en 1995 (NCC (2002), p 5-11). En outre, le NCC a observé que cette contraction relative est intervenue alors que la demande de services de taxi par habitant est censée avoir augmenté, en raison notamment de la hausse du nombre de touristes et de la progression sensible du revenu par habitant.

La baisse du nombre relatif de taxis en Australie s'est accompagnée d'une augmentation soutenue du prix des licences. En 1999, la *Productivity Commission* a révélé une augmentation réelle significative du prix des licences de taxis dans toutes les grandes agglomérations australiennes au cours des années 90 (*Productivity Commission* 1999, p 15). Selon une enquête sur les tarifs demandée par le gouvernement (*Essential Services Commission* (2005), pp 40-42), la valeur des licences de taxi à Melbourne a progressé de 76 % en valeur réelle de 1989 à 2004. L'explication : un nombre quasi-nul de nouvelles licences émises par l'autorité de tutelle sur la période et une augmentation de 16 % des tarifs réglementés en valeur réelle<sup>14</sup>. Par ailleurs, bien que le gouvernement ait annoncé des mesures visant à réduire progressivement de prix des licences en 2002 (*ibid*, p 14), ces derniers ont gagné 29 % supplémentaires en valeur réelle entre fin 2004 et mi 2007<sup>15</sup>.

<sup>13</sup> Consulter notamment le *Transport Act* 1983 (notamment l'article 143). Parlement de Victoria. [www.parliament.vic.gov.au](http://www.parliament.vic.gov.au). L'obligation de prendre en compte les intérêts des opérateurs existants et d'évaluer le besoin de services de taxi supplémentaires pourrait paraître vouloir limiter l'offre dans une certaine mesure.

<sup>14</sup> Le prix de la course a augmenté de 31 % en valeur réelle entre 1987 et 2000. Mais, en l'absence d'ajustements supplémentaires au cours des cinq années suivantes, l'augmentation des tarifs a diminué à 16 % entre 1987 et 2005.

<sup>15</sup> Consulter le site [www.bsx.com.au](http://www.bsx.com.au) pour obtenir des informations sur le prix des licences dans la région.

Dans son étude, Barrett (2003, p35) révèle qu'au cours des 20 années qui ont précédé la libéralisation du secteur des taxis en Irlande, le prix des licences à Dublin a été multiplié par 25, passant de 3 500 à 90 000 livres irlandaises. Ce phénomène s'explique par le fait que le nombre de licences n'a été revu en hausse (de 7.6 %) qu'à une seule reprise entre 1978 et 1998 (Fingleton *et al*, 1998). A New York, le nombre de licences de taxis a diminué de 1 400 environ par rapport à 1937 (Moore & Balaker, p 111, citant Markowitz (2004)), et leur prix atteignait 250 000 USD en 2000 (OCDE 2000), 379 000 USD en 2005 (Schaller (2006), p 38) et 600 000 en 2007<sup>16</sup>. Schaller (2005, p 64) remarque que le nombre de licences est resté stable depuis l'instauration d'une politique restrictive au cours des années 30 « à *Boston, Chicago... et dans d'autres grandes agglomérations* ».

Selon Ho (1993), le prix moyen d'une licence de taxi à Hong Kong est passé de 200 000 HKD en 1980 à 1,5 million HKD en 1987. A Paris, les licences de taxi s'échangent entre 100 000 et 125 000 EUR (OCDE/CEMT (2007), p 121), contre 46 000 USD en 1990 (OCDE (2000), p 12), en dépit de l'existence de mécanismes parallèles et réglementés permettant d'obtenir une licence gratuitement.

Du point de vue économique, les restrictions importantes sur l'offre reflétées par le prix très élevé des licences de taxi soulèvent des interrogations à la fois sur le plan de l'équité et sur le plan de l'efficacité économique. Le coût élevé de l'achat de la licence augmente en effet sensiblement le coût d'exploitation du taxi, dans la mesure où cet investissement doit générer un taux de rendement. De la même manière, si la licence est louée, les loyers augmentent considérablement le total des frais : ainsi, il est estimé que le coût des loyers représentait environ un sixième du coût total d'exploitation d'un taxi à Melbourne en 2004 (ESC (2005), p 38).

Or ces frais supplémentaires se répercutent inévitablement sur les tarifs pratiqués<sup>17</sup> et entraînent une désaffection pour ce moyen de transport (comme en témoigne la contraction de la part de marché des taxis dans les transports publics). Sur le plan de l'efficacité économique, l'augmentation des tarifs pratiqués se traduit par un faible taux d'utilisation des taxis et, partant, par une perte sèche pour le bien-être économique. S'agissant de la question de l'équité, la hausse des prix induite par la restriction de l'offre entraîne des transferts importants du consommateur vers le fournisseur. Or il s'agit d'un enjeu majeur dans la mesure où les consommateurs aux revenus plus faibles consacrent une part plus importante du total de leurs revenus aux services de taxi.

Le poids de ces transferts et des pertes sèches est lourd : selon Moore & Balaker (2006, p 111), le total des rentes de monopole au début des années 80 à New York s'élevait à 590 millions USD (à taux de change constant). En 1999, les coûts induits par la restriction de l'offre à Melbourne en Australie se chiffraient à 72 millions USD par an environ<sup>18</sup>, alors que le prix des licences a pratiquement doublé dans l'intervalle et que les auteurs de cette estimation soulignent que ces coûts augmentent de façon exponentielle par rapport au prix des licences (NCC (2002), p 2-4).

La tendance évoquée ci-dessus d'accentuer progressivement la limitation de l'offre sur les marchés à l'accès restreint est essentiellement attribuée, dans les ouvrages consacrés au sujet, à la pression importante exercée par le groupe relativement restreint et très solidaire des opérateurs historiques. La nomination fréquente d'autorités de tutelle spécifiquement dédiées à l'émission des licences de taxis accroît également la probabilité d'un détournement de la réglementation à long terme.

<sup>16</sup> *Taxi Medallions Fetch a Record \$600,000 each*, New York Sun, 30 mai 2007 (source : Bloomberg News).

<sup>17</sup> Dans la mesure où, sur les marchés à l'accès restreint, les tarifs sont toujours réglementés et sont fixés par rapport aux coûts moyens dans la plupart des cas.

<sup>18</sup> Transferts aux fournisseurs de 66 millions USD et pertes sèches de 6 millions USD.

Ces chiffres laissent à penser que, même si les arguments théoriques en faveur de la restriction de l'offre de taxis sont légitimes, il est peu probable qu'un système réglementaire fondé sur ces principes aboutisse à un résultat équivalent à ou proche du degré de restriction « optimal » à terme. En fait, le degré de restriction de l'offre observé dans un certain nombre de cas conduit à la conclusion suivante : même les partisans de la théorie selon laquelle une offre « optimale » de taxis existe en deçà de l'équilibre atteint en situation de marché ouvert devraient probablement opter pour un système d'entrée libre, qui apparaît comme la deuxième solution la plus adaptée.

Néanmoins, si les chiffres présentés ci-dessus témoignent d'une tendance généralisée au durcissement des conditions restrictives sur l'offre à terme, cette tendance n'est pas universelle. Dans son étude publiée en 2000 (pp 11-12), l'OCDE fournit le prix des licences de taxi dans différentes grandes agglomérations aux Etats-Unis et dans cinq autres pays. Les dix villes étudiées dans ces cinq autres pays affichent toutes des valeurs de rareté élevées (de 46 000 USD (1990) à Paris à 215 000 (1995) à Sydney, avec des prix inférieurs à 100 000 USD dans trois villes seulement).

En revanche, la situation est plus contrastée dans les 11 agglomérations américaines citées, cinq d'entre elles affichant une valeur de rareté élevée (de 55 000 à 250 000 USD) et cinq autres une valeur basse (moins de 25 000 USD)<sup>19</sup>. Ces observations s'inscrivent dans la lignée de celles effectuées à l'issue de la libéralisation du secteur des taxis dans quelques agglomérations américaines au cours des années 70 et 80. Ainsi, le NCC (2002) a révélé que le faible prix des licences dans une grande part des 21 villes ayant ouvert l'accès au secteur des taxis sur cette période (audité par Teal and Berglund (1987) et Price Waterhouse (1993)) signifiait que le niveau de départ avant la libéralisation était plus proche du niveau d'équilibre théorique en situation de marché ouvert que dans la majorité des marchés à l'accès restreint.

Dans certains cas, il a été prouvé que la réglementation de l'offre n'avait pas entraîné une augmentation progressive de la demande excédentaire, ce qui montre que les détournements réglementaires ne sont pas nécessairement couronnés de succès au sein du secteur des taxis et témoigne de l'utilité d'une analyse des facteurs qui ont permis à certaines autorités de tutelle d'atteindre des résultats satisfaisants en dépit d'un contexte défavorable. Quoiqu'il en soit, les éléments présentés ci-dessus laissent à penser que le détournement de la réglementation a plus de chances d'aboutir au sein d'un marché à l'accès restreint, ce qui constitue une confirmation pratique des arguments théoriques défavorables à la restriction de l'offre de taxis.

#### 4.2.1 *Limitation de l'offre et contrôle des prix*

Il est possible d'expliquer en partie la tendance généralisée à une hausse rapide des prix des licences sur les marchés réglementés (tout du moins sur les marchés où les licences peuvent être librement échangées) par l'interaction entre limitation de l'offre et contrôle des prix.

Une fois que les licences atteignent une valeur d'échange élevée, la structure de coût des opérateurs qui ont acheté leur licence au prix actuel ou à un niveau proche, ainsi que des opérateurs qui louent leur licence, inclut une part importante dédiée au remboursement du coût de ladite licence (ou au paiement du loyer). Dans une telle situation, les opérateurs font inévitablement pression pour que la réglementation des prix tienne compte de ces coûts. Au sein du secteur des taxis, le contrôle des prix est généralement fondé en grande partie, voire en totalité, sur la méthode du prix de revient majoré.

Les différentes autorités de tutelle ont adopté des positions divergentes quant à l'intégration ou non du coût en capital de la licence au sein des méthodes de fixation des tarifs. Néanmoins, on a pu observer que l'intégration de ce coût en capital entraîne un « cercle vicieux » : l'augmentation des tarifs accordée à la

<sup>19</sup> Le prix observé dans la onzième ville (23 000 à Chicago en 1990) est difficile à classer.

suite du renchérissement de la licence entraîne inévitablement une hausse des revenus moyens et, partant, des rentes de monopole perçues par les détenteurs de licence. Comme le prix de la licence reflète en totalité la valeur actualisée de ces rentes attendues, il augmente si ces dernières s'orientent à la hausse, ce qui accentue la pression en faveur d'une hausse des tarifs.

L'ESC (2005, pp 38-9) met également en évidence l'existence d'un mécanisme de transmission directe équivalent à celui présenté ci-dessus pour les locations de licence. De nombreux contrats de location prévoient en effet des clauses relatives à l'augmentation automatique des loyers en cas de hausse des tarifs. Or l'augmentation automatique des loyers entraîne immédiatement et inmanquablement une hausse du prix des licences.

Dans ces conditions, il est clair que le contrôle des prix ne doit pas tenir compte du prix des licences, même s'il est élevé. Dans la pratique, même les systèmes de réglementation des prix qui ne prennent pas explicitement en compte le prix des licences ont fait preuve d'une certaine inefficacité à empêcher la hausse des rentes de monopole perçues par les détenteurs de licences de taxi. Néanmoins, l'ajout à ce système d'un élément entraînant un tel cercle vicieux ne peut qu'aggraver ce problème.

### 4.3 *Résultats de la libéralisation*

Comme nous l'avons indiqué ci-dessus, Moore et Balaker (2006) concluent que la plupart des économistes qui analysent les conséquences de la libéralisation du secteur des taxis estiment que celle-ci est bénéfique. Si l'on examine l'ensemble des ouvrages consacrés au sujet, il ressort que les analyses effectuées il y a plusieurs années aboutissent plus généralement à des conclusions négatives, tandis que les ouvrages plus récents fournissent des résultats plus positifs. Cette distinction peut être liée en partie à certains aspects spécifiques des divers cas de libéralisation examinés, ainsi qu'aux différences d'interprétation.

Ainsi, Teal et Berglund (1987) et Price Waterhouse (1993) ont évalué la situation d'un certain nombre d'agglomérations américaines ayant libéralisé le secteur des taxis au cours des années 70 et 80 : leurs conclusions sont globalement négatives. Néanmoins, Frankena et Pautler (1984) ont analysé les mêmes données et aboutissent à une conclusion plus positive : même si des problèmes sont apparus suite à la déréglementation, de nouvelles mesures législatives sont généralement préférables au retour du contrôle de l'accès au marché, qu'ils considèrent comme inacceptable du point de vue théorique (OCDE (2000), p 7, p 17).

En 2002, le NCC australien concluait au sujet des difficultés identifiées par Teal et Berglund et Price Waterhouse suite à la libéralisation du secteur :

*La plupart de ces problèmes sont néanmoins liés à l'échec de la réglementation qualitative et non de la réglementation quantitative. Par ailleurs, les prix des licences de taxis avant la libéralisation aux États-Unis étaient généralement bien inférieurs aux prix actuels enregistrés en Australie, ce qui suggère que la déréglementation était moins prédisposée à entraîner des ajustements de marché favorables aux consommateurs que ce n'est le cas en Australie. > Sur les 21 agglomérations évaluées par Price Waterhouse, quinze ont maintenu leur politique de libre accès au marché, ce qui montre que près des trois quarts des villes ont estimé, au vu de ces résultats concrets, que la suppression des restrictions sur l'offre apportait un bénéfice net. (NCC (2002), p 5-3).*

Teal et Berglund (1987, p41) ont publié des chiffres indiquant que les nouveaux arrivants au sein du secteur représentaient en moyenne 52 % seulement de la flotte existante dans les agglomérations étudiées, à l'exception de San Diego (127 %). À l'inverse des résultats enregistrés aux États-Unis, la plupart des cas

les plus récents de libéralisation concernent des agglomérations où le degré de restriction de l'offre (tel qu'indiqué par le prix des licences) était élevé. Par exemple, une licence de taxi à Dublin se négociait à 90 000 livres irlandaises avant la libéralisation. Barrett (2003, p 35) a montré que le nombre de taxis à Dublin a progressé de 216 % au cours des deux années qui ont suivi la déréglementation, tandis que la fourchette de progression dans cinq autres agglomérations irlandaises est comprise entre 110 % et 258 %<sup>20</sup>. Selon une étude de Goodbody Economic Consultants (2001) fondée sur les résultats d'une enquête réalisée auprès des consommateurs après la libéralisation, « plus des deux tiers » des personnes interrogées estimaient que la libéralisation était positive, contre 14 % qui considéraient qu'il s'agissait d'une mesure nocive. Près de 50 % des personnes interrogées jugeaient que les services de taxi s'étaient améliorés depuis la libéralisation, 5 % seulement estimant qu'ils s'étaient détériorés. L'étude Goodbody conclut :

*« En dépit de problèmes persistants, il est prouvé que les délais d'attente après minuit ont considérablement diminué depuis 1997 ».*

L'étude Goodbody indique également que la disponibilité globale des taxis s'est sensiblement améliorée, tandis qu'une plus grande proportion de la flotte est désormais composée de *hackneys*, ce qui laisse à penser que l'efficacité des services de taxi s'est également améliorée.

En Nouvelle-Zélande, le nombre de taxis en circulation dans les principales agglomérations a également augmenté de près de 200 % suite à la déréglementation en 1989<sup>21</sup>. Selon Morrison (1997) :

*Suite à la loi de 1989, qui a mis un terme aux restrictions quantitatives, le nombre de compagnies dans les centres-villes a été multiplié par trois, tandis que le nombre de taxis a massivement augmenté. La gamme de services de taxi s'est largement étoffée et couvre différents segments de marché, tout en offrant une couverture géographique étendue. Ces changements se sont accompagnés d'une baisse des tarifs, du moins en valeur réelle.*

Suite à la suppression des restrictions sur l'offre de taxis en Suède en 1989, le nombre de taxis a également augmenté sensiblement et a presque doublé dans les grandes agglomérations telles que Stockholm et Göteborg au cours des deux premières années. Garling *et al* (1995 – cité par Kang (1998)) indiquent que la disponibilité des taxis s'est améliorée quelle que soit la taille de l'agglomération. Après une hausse initiale liée à diverses raisons telle que l'application d'un taux de TVA de 20 % sur les services de transport, le niveau des tarifs a considérablement diminué.

Les Pays-Bas ont mis en œuvre diverses réformes au sein du secteur des taxis en 2000, parmi lesquelles la suppression du contrôle à l'entrée. En dépit d'un ralentissement économique (avec un épisode de récession en 2003), les résultats de la libéralisation du secteur sont globalement positifs, comme en témoignent l'augmentation de 50 % du nombre de taxis en 2003, la hausse de 20 % du nombre de kilomètres parcourus avec passager et la stabilité, voire l'amélioration, du niveau de satisfaction des clients. Un certain nombre d'indicateurs négatifs sont néanmoins à noter : diminution de la part de la population utilisant des taxis, hausse du prix de la course. Cependant, ces facteurs sont considérés comme une conséquence à la fois du ralentissement économique et du fait qu'un équilibre post-libéralisation n'a pas encore été atteint. D'une manière générale, ces changements sont considérés comme positifs (OCDE/CEMT (2007), pp 59-84).

<sup>20</sup> Barrett présente ses chiffres de manière incorrecte, les données « variation en % » représentant en fait le total après libéralisation en pourcentage du nombre de licences avant libéralisation. Les chiffres fournis ci-dessus ont été corrigés.

<sup>21</sup> Selon le NCC (2002, p 5-3), le nombre de taxis en circulation a augmenté de 2 67 en 1989 à 6 907 en 1998.



Un autre avantage de la libéralisation cité dans la plupart des ouvrages consacrés au sujet est celui de l'innovation. Kang (1995) indique en effet que d'importantes innovations ont fait leur apparition à l'issue de la libéralisation du secteur des taxis en Suède, parmi lesquelles l'adoption de structures tarifaires différenciées en vue d'encourager l'utilisation des taxis hors des périodes de pointe. Violland (2007) ajoute que la déréglementation de l'accès au marché favorise également l'innovation au niveau organisationnel, notamment par le biais de nouveaux contrats conclus entre les compagnies de taxis et les hôtels et entreprises. Soon (1999) cite plusieurs exemples d'innovation au niveau des services en Nouvelle-Zélande, tels que l'introduction de camionnettes et de taxis dédiés aux hommes d'affaires, la mise en place de nouveaux systèmes de paiement, le renforcement de la publicité sur les véhicules et la participation de certaines compagnies à des appels d'offres relatifs à des lignes d'autobus. À titre de comparaison, Soon cite l'exemple de l'autorité de tutelle de l'un des marchés les plus réglementés (Melbourne en Australie), qui a interdit un projet de service innovant proposant de fournir des chauffeurs de sexe féminin uniquement, ce qui témoigne de la tendance systématique des marchés hautement réglementés à freiner l'innovation.

Violland (2007) souligne également que les groupes de population qui bénéficient généralement du niveau de service le plus médiocre sur les marchés à l'accès restreint tendent à être les premiers à tirer profit de la libéralisation, dans la mesure où le renforcement de la concurrence incite les opérateurs à améliorer leur offre de service à leur égard. Parmi ces groupes figurent les personnes à mobilité réduite (avec l'exemple du Japon notamment) et les personnes résidant en banlieue ou dans des zones rurales.

#### 4.3.1 *Synthèse*

Il convient de souligner que les résultats de la déréglementation sont étroitement liés à la situation existante avant la libéralisation. Si la gestion des restrictions appliquées à l'offre a été relativement efficace, en réussissant à maintenir l'offre à un niveau proche de celui existant en situation de marché ouvert et les prix des licences à un niveau bas, il est peu probable que le nombre de nouveaux arrivants sur le marché soit très élevé. En revanche, si la réglementation imposait une restriction sévère sur l'offre, la libéralisation se traduit en général par une hausse de 200 % ou plus du nombre de taxis, à l'instar de ce qui s'est produit en Irlande et en Nouvelle-Zélande.

Lorsque le nombre de taxis augmente aussi fortement suite à la libéralisation, il est possible que le niveau d'équilibre de l'offre soit dépassé à court terme. Néanmoins, ce qui peut apparaître à court terme comme une augmentation intenable du nombre de taxis en circulation s'est révélé dans bien des cas comme le nouveau niveau d'équilibre de l'offre. Autre possibilité : compte tenu de l'arrivée de nombreux nouveaux opérateurs inexpérimentés sur le marché et du renforcement sensible de la concurrence, le niveau des revenus peut diminuer à court terme, tandis que les taux de défaillances peuvent exploser.

Dans une telle situation, des voix s'élèvent généralement pour affirmer que la libéralisation a entraîné le chaos au sein du secteur et qu'un retour à la réglementation de l'offre serait préférable. Ces voix sont, en règle générale, celle des opérateurs historiques qui cherchent à revenir aux conditions du marché telles qu'elles prévalaient avant la libéralisation.

Les effets négatifs qui apparaissent immédiatement après la libéralisation sont souvent associés à une déréglementation trop précoce des tarifs et à une incapacité à mettre en œuvre des mesures de contrôle qui permettraient aux consommateurs de préserver leurs propres intérêts au sein d'un marché déréglementé, telles que des obligations de notification et/ou de publicité. Il semble qu'il existe un risque majeur que les autorités de tutelle sous-estiment l'ampleur de l'ajustement qui interviendra après la libéralisation et ne prêtent pas suffisamment attention à la nécessité d'adopter des mesures réglementaires dans d'autres domaines. Or si ce phénomène est particulièrement crucial à court terme, au cours de la période où les

consommateurs ajustent leur comportement vis-à-vis du nouvel environnement, il peut également jouer un rôle décisif à plus long terme.

## 5. Problèmes liés à la mise en œuvre d'une réforme réglementaire stimulant la concurrence

On observe généralement que plus le nombre réel de taxis sous licence s'éloigne du niveau d'équilibre du marché libre, plus il est difficile de mener à bien une réforme majeure. Ainsi, la valeur effective des licences va augmenter au fur et à mesure de leur relative raréfaction, ce qui n'est pas dénué de conséquences :

- plus les rentes de monopole perçues par chaque titulaire augmentent, plus ces derniers sont enclins à rejeter vigoureusement toute réforme ;
- alors que les *numerus clausus* sont de plus en plus stricts, des interventions réglementaires complémentaires sont souvent nécessaires pour tenter de remédier aux distorsions précisément imputables à ces *numerus clausus*. Il convient d'éliminer ou de corriger ces distorsions dans le cadre du processus de réforme dans son ensemble ;
- enfin, plus la valeur totale d'une licence (c'est-à-dire la valeur capitalisée des rentes monopolistiques prévues) augmente, plus le coût escompté des éventuelles indemnités dues aux titulaires s'accroît, tout comme le coût politique de mise en œuvre de la réforme, hors indemnisation.

Étant donné ces difficultés, les autorités qui envisagent un assouplissement du *numerus clausus* doivent d'abord répondre à deux questions étroitement corrélées : une libéralisation immédiate du marché est-elle préférable à une libéralisation progressive ? Faut-il indemniser les titulaires des licences partiellement ou en totalité, en fonction de la valeur des licences existantes ?

### 5.1 La question de l'indemnisation

Soon (1999) affirme que la question de l'indemnisation est « à la fois morale et pratique ». D'un point de vue moral, on peut avancer l'argument selon lequel les titulaires des licences ont droit à un dédommagement en contrepartie de la perte de valeur de leur licence, pour la simple et bonne raison que le changement d'orientation politique du gouvernement nuit de manière disproportionnée à leur corporation. C'est d'autant plus vrai que l'annulation immédiate des licences peut conduire à des difficultés financières dans certains cas. Dans ce contexte, on évoque généralement le cas des personnes ayant acquis leur licence récemment, en pensant probablement que le gouvernement poursuivrait sa politique au moins à moyen terme.

#### Encadré 1. La réforme italienne de 2006

En juin 2006, le décret n°223/2006, qui a libéralisé un certain nombre de secteurs de l'économie italienne, a aboli la disposition selon laquelle il n'était possible de détenir qu'une seule licence par personne, et a autorisé les municipalités à émettre de nouvelles licences par l'intermédiaire d'un processus d'appel d'offres (alors qu'elles étaient délivrées gratuitement par le passé). Ce décret avait force exécutoire, mais pouvait être sujet à des modifications, le Parlement disposant de 60 jours pour en débattre et finalement, l'approuver.

Le décret a suscité une vive réaction de la part des chauffeurs de taxi (marquée par des grèves et des manifestations dans les grandes villes), qui ont invoqué une baisse substantielle de leurs revenus en cas d'émission de nouvelles licences. Ils ont avancé que tous les problèmes du secteur des taxis étaient dus à un trafic automobile excessif (notamment aux heures de pointe) et qu'une augmentation du nombre de licences entraînerait simplement

une diminution des revenus des chauffeurs de taxi, sans améliorer la qualité du service. L'ampleur des protestations a conduit le gouvernement à édulcorer sa réforme (il a notamment maintenu la condition d'une seule licence par personne). Le Parlement l'a entérinée.

En vertu de la nouvelle loi, les municipalités sont désormais autorisées à :

- prévoir des plages de travail supplémentaires afin d'augmenter le nombre total de taxis en circulation aux heures de pointe ;
- délivrer à l'issue d'un appel d'offres de nouvelles licences à des personnes qualifiées, à la condition qu'elles n'en détiennent pas déjà une (maintien de la condition d'une licence par personne, délivrée uniquement à des personnes physiques). Au moins 80 % des recettes des appels d'offres serviront à indemniser les titulaires des licences existantes émises par la même municipalité. Les municipalités pourront utiliser les éventuelles ressources supplémentaires pour améliorer les services de transport public non réguliers ;
- délivrer des licences provisoires ou saisonnières (la priorité étant accordée aux chauffeurs de véhicules de location et aux titulaires de licences) afin de faire face à toute circonstance particulière ;
- réglementer les tarifs des services de taxi pour des itinéraires spécifiques (par ex. aéroports, gares), afin d'éviter les abus de position dominante vis-à-vis des clients inexpérimentés (les touristes par exemple).

Aucune donnée relative à la mise en œuvre de ces dispositions n'est encore disponible (à l'exception de la réglementation tarifaire des services pour certains itinéraires spécifiques).

Toutefois, il existe un contre-argument solide : les acquéreurs d'un bien incorporel auquel une politique gouvernementale spécifique confère toute sa valeur sont supposés avoir conscience du risque omniprésent qu'une modification de cette politique diminue considérablement la valeur de ce bien. De même, un changement de politique (voire éventuellement l'immobilisme politique) peut entraîner une augmentation substantielle de la valeur de ce bien : ainsi, les titulaires des licences bénéficient généralement de taux de rendement très élevés, qui reflètent sans aucun doute le risque élevé inhérent à cet investissement<sup>22</sup>. Selon toute logique, étant donné que les titulaires des licences ont pu récolter les fruits des choix politiques passés du gouvernement sans qu'ils leur soient confisqués, ils doivent également s'attendre à subir des pertes exceptionnelles imputables à des choix politiques différents, sans pouvoir prétendre à aucune indemnisation.

D'un point de vue pratique, d'aucuns, tel Soon, avancent l'argument suivant :

*La réforme sera moins perturbatrice si les intérêts qu'elle affecte peuvent être « corrompus ». Bien que la Nouvelle-Zélande soit parvenue à déréglementer le secteur des taxis sans verser une seule indemnité, elle l'a fait au cours d'une période peu ordinaire, marquée par de nombreuses autres réformes en cours.*

Toutefois, cet argument semble excessivement pessimiste. La Nouvelle-Zélande n'est pas le seul pays à avoir supprimé brutalement le *numerus clausus* sans verser d'indemnités : l'Irlande a également opté pour cette solution en 2000. En outre, les titulaires des licences ont vainement tenté de contrer juridiquement les réformes irlandaises. Selon les décisions judiciaires qui s'en sont suivies, les gouvernements ne sont soumis à aucune obligation légale de versement d'indemnités. Barrett (2003) fait remarquer que :

<sup>22</sup>

Le risque majeur étant inévitablement celui d'une déréglementation.

*Il existe dans la jurisprudence irlandaise trois jugements en vertu desquels les licences de taxi ne confèrent aucun droit de propriété. Par conséquent, leurs conditions de détention peuvent être modifiées sans que cela donne droit à une quelconque indemnisation.*

Le premier de ces jugements est la décision rendue dans l'affaire *Hempenstall* contre ministère de l'Environnement (1992), selon laquelle :

*'les droits de propriété rattachés aux licences créées juridiquement (...) sont soumis aux conditions prévues par la loi et à une condition tacite selon laquelle ces conditions peuvent être modifiées juridiquement. Les modifications apportées par la loi peuvent augmenter la valeur de ces droits de propriété (...), ou la diminuer (...). Toutefois, tout amendement de la loi qui, en modifiant les conditions de détention d'une licence, en diminue la valeur commerciale, ne peut être considéré comme une atteinte au droit de propriété rattaché à la licence – c'est la conséquence de la condition tacite inhérente au droit de propriété rattaché à la licence.'* (extrait de *Barrett* (2003), pp. 35-36)

Ainsi, le « droit de propriété » conféré par une licence réglementaire est conditionné par nature à toute modification ultérieure de la loi susceptible d'altérer sa nature ou sa valeur. Par conséquent, de telles modifications ne peuvent être assimilées à l'abrogation d'un droit de propriété donnant légalement lieu à une indemnisation. Cette position a été confirmée ultérieurement par deux autres décisions<sup>23</sup>.

En outre, même si les titulaires des licences préféreraient nettement obtenir une indemnisation plutôt que rien du tout, il est moins certain que la promesse d'un dédommagement dissuade la plupart d'entre eux de s'opposer à la réforme. En effet, le montant maximal des indemnités susceptibles d'être accordées par un gouvernement réformiste ne dépassera pas la valeur de réalisation immédiate de la licence. Dans un contexte où les licences auraient pris rapidement de la valeur, on peut s'attendre à ce que les titulaires préfèrent la perspective de gains à long terme à une indemnité forfaitaire équivalente à la valeur actuelle.

Plus fondamentalement, tandis que *Soon* avance l'argument selon lequel le non-versement d'indemnités peut représenter un obstacle pratique à la réforme, on peut tout autant affirmer que la perception de la nécessité d'indemniser totalement les titulaires constitue elle-même un obstacle important à la réforme réglementaire. Si l'on prend pour référence les chiffres cités plus haut, le coût d'indemnisation des titulaires pour la perte de valeur de leur licence se monterait à près de 6,6 milliards USD à New York et à 1,6 milliard AUD à Melbourne. Par ailleurs, il aurait atteint 245 millions IEP à Dublin avant la déréglementation. Les gouvernements peuvent manifestement s'attendre à rencontrer d'importantes difficultés politiques s'ils justifient le versement de ces sommes à de petits groupes d'intérêts par leur volonté de les indemniser de la perte de leur droit de soutirer des rentes monopolistiques aux consommateurs.

Il existe une autre raison pour laquelle il n'est pas souhaitable de d'indemniser totalement les titulaires des licences. Étant donné que la valeur des licences reflète la valeur actuelle des futures rentes de monopole, une indemnisation totale conduit les contribuables à transférer aux titulaires des licences existantes une somme presque équivalente à la totalité de la valeur actuelle des bénéfices futurs à attendre de la suppression du *numerus clausus*. Selon *Soon*, étant donné que tous les contribuables n'utilisent pas les taxis, certains contribuables seraient en réalité encore moins bien lotis qu'avant.

<sup>23</sup> *Humphry and others v Minister of Environment* (2000) et *Gorman, Kearns, and National Taxi Drivers Union v the Minister of State and the Attorney General* (2001), examen judiciaire de la décision rendue dans l'affaire *Humphry*. Cf. [www.bailii.org](http://www.bailii.org)

Pour cette raison, un plafonnement des indemnités a été proposé dans certains cas, dans l'hypothèse d'une suppression du *numerus clausus*. Des modèles prévoyant une indemnisation des titulaires en fonction de leur investissement initial plutôt que de la valeur vénale de leur licence au moment de l'annonce de la déréglementation ont notamment été mis en avant (par ex. Deighton-Smith (2000)). Ces approches se fondent essentiellement sur la volonté politique d'éviter la survenue de difficultés financières découlant directement de réformes rapides, tout en s'assurant que les fruits de la réforme seront largement récoltés par les consommateurs.

Somme toute, il est peu probable que les titulaires des licences se voient reconnaître un droit légal à indemnisation en cas de déréglementation du nombre de taxi. En revanche, selon toute vraisemblance, les tentatives d'instauration de régimes d'indemnisation risquent de restreindre les possibilités de supprimer les *numerus clausus*. Dans cette optique, et étant donné que le versement d'indemnités substantielles aux titulaires des licences existantes risque de les conduire à récolter une part importante des bénéfices de la réforme, il est peu probable qu'il s'agisse d'une stratégie judicieuse pour réformer efficacement le secteur des taxis.

### **Encadré 2. Échec de la réforme du secteur des taxis : l'expérience du Territoire du Nord**

Le gouvernement du Territoire du Nord a été le seul à supprimer les restrictions d'accès au secteur des taxis dans le cadre des réformes liées à la politique nationale de la concurrence en Australie. Il a supprimé ces restrictions en janvier 1999 et a versé aux titulaires des licences existantes des indemnités calculées sur la base du prix d'acquisition le plus élevé observé avant la réforme. Toutefois, une redevance annuelle a été mise en place pour tenter de récupérer le coût de ces indemnités. À Darwin, où 95 000 AUD d'indemnités ont été versés par licence, cette redevance annuelle se montait à 16 000 AUD. Il était prévu qu'elle soit supprimée une fois le coût des indemnités récupéré, au bout de sept à huit ans selon les estimations.

Du fait du montant élevé de ces redevances annuelles, les restrictions d'accès au secteur ont été bien plus importantes qu'en Nouvelle-Zélande et en Irlande. Néanmoins, le secteur s'est fortement plaint de la saturation du marché et des faibles taux de rendement pour les titulaires existants comme pour les nouveaux arrivants. Cette situation, outre certaines plaintes relatives au comportement des chauffeurs, a conduit le gouvernement à réagir en plafonnant « provisoirement » le nombre de licences dès novembre 2001. Ce plafond « provisoire » a été prolongé à deux reprises et est désormais définitif, avec un maximum de 11.1 taxis pour 10 000 habitants (NCC (2003), p 2-19) – un niveau comparable à celui observé dans d'autres métropoles australiennes caractérisées par un *numerus clausus* strict et des prix d'acquisition des licences très élevés, et équivalent à seulement un tiers du nombre de taxis en circulation sur le marché déréglementé néo-zélandais. La redevance annuelle (toujours égale à 16 000 AUD à Darwin) continue d'être versée, près de huit ans après les premières réformes, mais à l'heure actuelle, rien ne laisse supposer qu'elle sera supprimée.

Ainsi, la réforme du secteur des taxis dans le Territoire du Nord semble avoir eu pour conséquence un transfert initial de près de 100 millions AUD aux titulaires des licences, suivi de l'adoption d'un système en vertu duquel les rentes de monopole générées par les restrictions d'accès au marché reviendront systématiquement au gouvernement au lieu d'être perçues par les titulaires des licences. Bien que cette situation soit préférable à celle qui régnait avant la réforme, la situation des consommateurs du point de vue du marché n'a pas pratiquement pas changé par rapport à la situation antérieure à la réforme. Toutefois, l'utilisation d'une formule explicite pour fixer le nombre de taxis réduit le risque d'une nouvelle restriction de l'offre à l'avenir. L'expérience du Territoire du Nord constitue donc un parfait exemple de la difficulté à libéraliser l'accès au marché à long terme.

## **5.2 Déréglementation immédiate contre élimination progressive du *numerus clausus***

L'importance des pertes financières encourues par les titulaires des licences en cas de déréglementation immédiate de l'accès aux marchés sur lesquels les prix d'acquisition des licences sont très élevés a conduit, dans un certain nombre de cas, à des propositions visant à augmenter le nombre de

taxis de manière progressive ou limitée. Par exemple, à la suite des rapports commandés par le gouvernement irlandais en 1992 et 1998, favorables à une libéralisation progressive, ce même gouvernement a d'abord proposé, en 1999, de délivrer une licence supplémentaire à chaque titulaire, tout en délivrant 500 nouvelles licences, la priorité étant accordée aux chauffeurs existants ne détenant pas encore de licence (Barrett (2003), pp. 36-37)<sup>24</sup>.

De même, en 2002, le gouvernement de Victoria a annoncé un programme prévoyant l'émission progressive de licences sur douze ans, les nouvelles émissions représentant environ 3 % du stock annuel de licences existantes.

Toutefois, ce type de propositions pose un problème pratique non négligeable : les analystes ont tendance à sous-estimer le niveau d'équilibre sur un marché donné. Par exemple, le rapport Oscar Faber, commandé par le gouvernement irlandais en 1998, prévoyait qu'une flotte de 5 900 taxis serait nécessaire au bout de 10 ans afin de répondre aux besoins de Dublin. Finalement, deux ans après la déréglementation, 9 000 taxis étaient en circulation à Dublin (Barrett (2003)).

De même, à Melbourne, la politique d'ajustement progressif annoncée en 2002 visait officiellement à initier une phase de transition vers un secteur moins réglementé, en diminuant progressivement la valeur des licences dans le temps et en supprimant la corrélation existant entre la fourniture de services de taxi et la licence de taxi en tant qu'avoir. (ESC (2005), pp14-15). On a estimé que ces objectifs pourraient être atteints en émettant chaque année un nombre de nouvelles licences correspondant à environ 3 % du stock initial pendant douze ans. Néanmoins, une fois de plus, le nombre de nouvelles licences nécessaires pour approcher l'équilibre offre/demande a été nettement sous-estimé. Dans un contexte marqué par une augmentation historique de la demande d'au moins 3 % par an au cours des deux décennies précédentes, il n'est pas surprenant que la politique mise en œuvre n'ait pas suffi à remédier à la pénurie relative de taxis. C'est d'autant plus flagrant que la valeur des licences a gagné près de 50 % en cinq ans depuis le lancement de cette politique (voir ci-dessus).

Ainsi, les programmes de réforme progressifs comportent un risque important : que les taux d'accès au marché demeurent extrêmement bas et que l'équilibre entre l'offre et la demande ne soit pas atteint. Un second problème aggrave considérablement ce risque : les titulaires des licences, par un lobbying continu, réussissent à ralentir, voire à interrompre le programme de réforme progressif. Ainsi, dans l'hypothèse où une réforme progressive serait envisagée, il est nécessaire, pour obtenir les résultats escomptés, de prévoir des mécanismes visant à garantir la mise en œuvre de mesures adaptées ainsi que leur « verrouillage », de manière à les préserver d'éventuels revirements politiques ultérieurs.

Toutefois, même en faisant abstraction des risques politiques liés à une réforme progressive, un inconvénient majeur persiste : les bénéfices de la réforme seront au minimum considérablement retardés. Comme précisé ci-dessus, le programme actuel de Victoria s'étale sur douze ans, et ne prévoit pas explicitement une disparition de la demande excédentaire à l'issue de cette période. Cinq ans après le début du processus, aucun progrès n'a été réalisé. Bien qu'il s'agisse sans aucun doute d'un exemple extrême, il est manifeste que tout programme de réforme progressif tentant de minimiser et d'étaler les pertes subies par les titulaires des licences impliquera nécessairement des coûts importants pour les consommateurs sur une période prolongée. Ainsi, et étant donné les risques signalés plus haut, cette approche de la réforme comporte beaucoup d'inconvénients.

À l'inverse, les expériences de la Nouvelle-Zélande et de l'Irlande démontrent clairement la faisabilité et l'efficacité des réformes à application immédiate. Dans les deux cas, le nombre de taxis a augmenté

<sup>24</sup> Cette proposition a été contestée avec succès devant les tribunaux, conduisant indirectement à la déréglementation immédiate de l'accès au marché.

rapidement et considérablement à la suite de l'ouverture de l'accès au marché, et la satisfaction des clients s'est améliorée. Aucune indemnité n'a été versée dans le cas de la Nouvelle-Zélande, tandis qu'en Irlande elle s'est limitée à des versements relativement mineurs visant à compenser les difficultés financières. Ainsi, les consommateurs ont pu récolter presque tous les bénéfices de la réforme peu de temps après sa mise en œuvre.

### **5.3 *Un environnement réglementaire favorable***

La déréglementation du secteur des taxis n'implique pas nécessairement, en termes conceptuels, une abrogation, voire une détérioration de la réglementation sur la qualité. De même, l'adoption en renfort d'une réglementation économique peut contribuer à l'amélioration des avantages générés par cette déréglementation pour le consommateur, ainsi qu'à l'efficacité globale du secteur.

#### **5.3.1 *Réglementation sur la qualité***

##### **Réglementation sur le comportement**

Un certain nombre d'études menées après la déréglementation ont mis en évidence une incidence croissante des problèmes de comportement, et notamment du refus des petites courses, des défections et autres formes d'incivilités des chauffeurs. Certains commentateurs ont attribué ces problèmes aux pressions économiques importantes subies par les exploitants sur un marché libre. Manifestement, dans la mesure où ces phénomènes semblent prendre suffisamment d'ampleur pour nuire à la qualité du service, la réglementation aura pour principale mission de garantir l'élaboration et l'application adéquate de règles de conduite appropriées, qui doivent s'accompagner d'un éventail de sanctions adaptées en cas de non-respect. Ces sanctions doivent aller jusqu'à une interdiction d'exercer : il convient de souligner que la suppression du *numerus clausus* n'implique pas une interdiction de retirer leur licence aux mauvais prestataires.

##### **Normes relatives aux véhicules**

Les normes relatives aux véhicules sont réglementées dans de nombreux pays, mais pas dans tous. Au minimum, ces normes concernent essentiellement la sécurité et sont donc également souhaitables sur un marché libre. Elles prévoient notamment des contrôles techniques périodiques. Dans certains cas, des restrictions relatives à l'âge du véhicule sont adoptées, mais elles constituent un indicateur assez médiocre.

Étant donné la faible part du coût d'achat du taxi dans les coûts d'exploitation totaux (estimé à xx % environ par l'ESC (2005)) cette réglementation risque d'avoir un impact concurrentiel limité sur le marché. Toutefois, comme la limitation de l'âge des véhicules constitue un moyen très médiocre de garantir que les taxis sont maintenus en état de circuler, les avantages d'une telle réglementation sont discutables. À la limite, on peut soutenir que l'amélioration constante des normes de sécurité des véhicules dans le temps laisse supposer que les normes de service minimales prévues par la réglementation garantissent aux consommateurs des véhicules relativement récents (donc performants).

##### **Normes relatives aux chauffeurs**

La réglementation des normes relatives aux chauffeurs prévoit généralement un test de compétences visant à garantir la sécurité des passagers, et peut également inclure des tests de compétences linguistiques et/ou de connaissance des itinéraires orientés vers des problèmes de qualité de service au sens plus large. Ces tests peuvent s'avérer plus importants encore dans un environnement libre ; c'est pourquoi il est conseillé de maintenir et même de renforcer la réglementation dans ce domaine. D'aucuns (tel Violland (2007)) affirment que lorsque l'accès au marché des taxis est libre, les nouveaux chauffeurs sont issus des communautés d'immigrants et souffrent souvent des lacunes linguistiques ou, plus généralement, que le

niveau de qualification risque d'être faible. Toutefois, on peut observer que certains marchés hautement réglementés, et notamment de nombreuses métropoles australiennes, se caractérisent également fréquemment par une large proportion de nouveaux immigrants. Lorsqu'un nombre restreint de licences s'échangent librement sur un marché, la majeure partie des bénéficiaires reviennent aux titulaires des licences, tandis que la rémunération des chauffeurs est généralement très faible. Par conséquent, ces derniers sont souvent des acteurs marginaux du marché du travail (ESC (2005), pp. 45-46, *et passim*).

Ces observations suggèrent que l'accès libre au marché n'aggrave pas vraiment les problèmes de compétence des chauffeurs, mais que ces problèmes ne risquent pas de disparaître et nécessitent donc une réglementation. Cela dit, il convient de reconnaître que la conduite d'un taxi exige peu de qualifications et que les tentatives visant à imposer des sessions de formation<sup>25</sup> sont d'un intérêt douteux. En effet, selon Violland (2007), les progrès technologiques tels que les systèmes GPS rendent rapidement obsolètes les normes relatives à la connaissance des itinéraires en vigueur dans de nombreux pays.

### Faciliter l'innovation

Autre question : le rôle de l'environnement réglementaire pour favoriser le développement de services innovants. En effet, ces innovations sont susceptibles de profiter considérablement aux consommateurs en cas de réforme. Selon Moore et Balaker (2006, p. 115), dans la plupart des cas, les initiatives de déréglementation s'accompagnent rarement d'innovations. Il y aurait toutefois une explication, à savoir que la déréglementation est seulement partielle et que les contraintes réglementaires restantes limitent souvent la portée des innovations. Par exemple, si les tarifs réglementés restent en vigueur (voir ci-dessous), il faut veiller à ce qu'ils ne mettent pas un frein au développement de services payants ou de transports semi-collectifs.

#### 5.3.2 La réglementation tarifaire

L'étude des marchés caractérisés par de fortes restrictions d'accès et donc des prix élevés d'acquisition des licences soulignent l'impact important sur l'augmentation du coût du service<sup>26</sup>. Les partisans de la suppression du *numerus clausus* avancent fréquemment que, toutes choses égales par ailleurs, l'abaissement du prix des licences permettrait de réduire considérablement le prix des services de taxi.

Par extension, cette observation a souvent conduit à affirmer qu'une baisse des tarifs est nécessairement une conséquence attendue de la suppression du *numerus clausus*. En principe, on s'attend à ce qu'une augmentation substantielle de l'offre d'un bien ou d'un service entraîne une diminution de son prix sur le marché. Toutefois, plusieurs facteurs indiquent que la suppression du *numerus clausus* n'entraînera qu'une réduction tarifaire minimale, voire nulle.

Il semble que les taux d'utilisation moyens soient généralement inférieurs sur les marchés libres par rapport aux marchés caractérisés par une offre très restreinte, bien que l'on observe qu'une augmentation de l'offre entraîne une hausse de la demande des services de taxi. Si les taux d'utilisation moyens sont réduits, l'existence de frais fixes va entraîner une augmentation du coût par kilomètre qui va compenser en partie les réductions de coût issues de la suppression du *numerus clausus*.

<sup>25</sup>

Voir :

<http://www.taxi.vic.gov.au/doi/internet/vehicules.nsf/AllDocs/FEFCF82BA0CAAECECA256F3200205E90?OpenDocument> pour des détails sur le processus d'accréditation des chauffeurs en 13 étapes en vigueur à Victoria, en Australie, dont une session de formation formelle de 90 heures à la conduite d'un taxi.

<sup>26</sup>

En effet, les exploitants doivent couvrir les coûts de location de la licence ou amortir le coût d'investissement.



Deuxièmement, on a pu observer que lorsque la réglementation tarifaire et le *numerus clausus* sont supprimés en même temps, les mouvements de prix observés peuvent refléter en partie un ajustement à la hausse des tarifs antérieurs, artificiellement bas.

Troisièmement, les hausses de prix sur un marché déréglementé sont susceptibles de refléter, du moins en partie, des imperfections du marché, notamment dans le cas des marchés des taxis hélés dans la rue et des taxis opérant à partir de stations. Comme on l'a vu au chapitre 2, les taxis en maraude détiennent effectivement des monopoles localisés, tandis que les consommateurs ont d'immenses difficultés à comparer les tarifs pratiqués avec les autres offres tarifaires qui pourraient éventuellement entrer en vigueur dans un avenir proche. Plus les marchés des taxis hélés dans la rue et des taxis opérant à partir de stations seront développés par rapport au marché de la préservation, qui fonctionne moins bien, plus cet effet risque d'être important. En outre, Violland (2007, p. 4) affirme que les exploitants qui font face à une baisse de leurs revenus moyens dans le cadre de la déréglementation sont susceptibles de réagir par une augmentation de leurs tarifs.

Comme on l'a noté, les expériences pratiques de déréglementation de l'accès au marché démontrent que des baisses tarifaires sont parfois observées, mais ne sont pas systématiques. Certains analystes (par exemple, Teal & Berglund (1987), p. 54) font remarquer l'absence de baisses tarifaires substantielles sur plusieurs marchés déréglementés pour démontrer que les bénéfices censés découler de la déréglementation sont inexistant dans la pratique, cette opinion constituant une large proportion des nombreux arguments contre la suppression du *numerus clausus*.

Toutefois, ces arguments omettent deux points. Tout d'abord, l'observation selon laquelle le délai d'attente est une composante de la qualité du service tend à montrer que les bénéfices de la déréglementation pour les consommateurs peuvent, dans de nombreux cas, prendre la forme de réductions substantielles des délais d'attente plutôt que d'une baisse tarifaire : sur un marché caractérisé par des tarifs et un accès non réglementés, des équilibres multiples sont possibles, un délai d'attente réduit étant associé à des tarifs plus élevés, et inversement. Lorsque les consommateurs manifestent une préférence relativement marquée pour des délais d'attente courts, on peut alors escompter des tarifs relativement élevés.

Deuxièmement, l'absence de baisses tarifaires peut refléter, du moins en partie, un échec en ce qui concerne l'adoption conjointe d'ajustements réglementaires visant à soutenir la suppression du *numerus clausus*. Reconnaisant les imperfections du marché évoquées plus haut, presque tous les commentateurs proposent de continuer à pratiquer une certaine forme de réglementation tarifaire dans les environnements libres. Ces suggestions diffèrent assez largement du point de vue de l'ampleur des interventions proposées. Toutefois, il s'avère que le plus souvent, lorsque la déréglementation a été suivie d'une hausse tarifaire, aucune mesure de réglementation tarifaire n'avait été prise.

Selon une vision minimaliste des dispositions réglementaires relatives aux tarifs, la fixation des prix risque fort, en soi, de s'avérer inutile. Une réglementation des structures tarifaires autorisées et l'exigence de différentes formules de publication des tarifs peuvent suffire à régler le problème de l'asymétrie des informations. Par exemple, la réglementation peut imposer la publication des tarifs sur Internet et leur affichage à l'extérieur des taxis, et la fréquence des modifications tarifaires peut également être réglementée. De même, il est possible d'exploiter les progrès en matière de technologies mobiles d'information afin de minimiser les problèmes d'information des consommateurs dans des systèmes caractérisés par une réglementation tarifaire moins intrusive.

Sinon, on peut considérer que le maintien d'une réglementation tarifaire formelle garantit que les consommateurs récolteront rapidement les fruits de la déréglementation de l'accès au marché. On a ainsi la certitude que les objectifs fondamentaux de la déréglementation seront atteints. Par ailleurs, cela permet de

renforcer le soutien politique de la réforme, ce qui réduit la probabilité d'un lobbying fructueux en faveur d'un revirement politique. Même si des approches édulcorées de la réglementation tarifaire sont favorisées à plus long terme, il semble préférable de maintenir une réglementation formelle au cours de la transition entre un secteur très réglementé et une nouvelle position d'équilibre caractérisée par un accès libre.

Toutefois, si l'on opte pour la conservation d'une réglementation tarifaire formelle, il convient d'accorder une attention soignée aux aménagements institutionnels permettant d'y parvenir. Comme évoqué plus haut, la capture de la réglementation est une caractéristique presque endémique du secteur des taxis : l'augmentation de 31 % des tarifs réglementés à Victoria entre 1987 et 2000<sup>27</sup>, évoquée plus haut, constitue un bon exemple dans le contexte de la réglementation tarifaire. Ce facteur montre à quel point il est important de ne pas s'adresser à des régulateurs propres au secteur, et de s'assurer que l'organisme en charge de la réglementation tarifaire possède les compétences économiques nécessaires. Il peut également s'avérer utile de fournir aux autorités réglementaires des instructions relatives aux objectifs et aux résultats attendus du régime de réglementation tarifaire.

En somme, le bilan des évolutions tarifaires qui ont suivi la déréglementation est mitigé, mais révèle qu'on peut s'attendre dans la plupart des cas à une baisse des tarifs moyens, à condition qu'un certain niveau de réglementation tarifaire soit maintenu. Des baisses tarifaires sont plus probables lorsque la position adoptée avant la déréglementation s'est caractérisée par des restrictions substantielles de l'offre. L'expérience suggère toutefois que la plupart des bénéficiaires associés à la déréglementation de l'accès au marché prendront la forme d'une réduction considérable des délais d'attente du fait d'entrées massives sur le marché.

## 6. Conclusions

Tandis que l'accès au secteur des taxis continue d'être extrêmement restreint dans la majeure partie de l'Occident, on observe une tendance manifeste à la suppression des *numerus clausus* (NCC (2002), p 5-3), ce qui reflète l'existence d'arguments pratiques et théoriques solides en faveur de la suppression des restrictions d'accès. D'un point de vue théorique, les désavantages spécifiques censés découler d'un « excès » de taxis ne constituent pas un argument en faveur de la politique de restriction de l'accès au marché. Les modèles économiques prétendant démontrer la possibilité d'améliorer les avantages pour le consommateur par une réduction du nombre de taxis se fondent généralement sur une série d'hypothèses restrictives, alors qu'une grande majorité d'économistes sont favorables à un accès libre. Même si l'on démontre l'existence d'avantages théoriques imputables à une restriction de l'accès au marché, il est également nécessaire d'établir qu'un accès réglementé pourrait générer des résultats encore meilleurs s'il était bien géré, afin de soutenir cette orientation politique. L'expérience en matière d'accès réglementé ne parle pas en faveur de cette proposition.

Étant donné ces facteurs, la réforme réglementaire des marchés dont l'accès est actuellement restreint devrait se concentrer sur la suppression du *numerus clausus*. Toutefois, la suppression de cette réglementation quantitative ne doit pas être caractérisée comme une politique de « déréglementation » totale du secteur des taxis. Afin de garantir une concrétisation des avantages éventuellement liés à une suppression des *numerus clausus* dans la pratique, il convient de prêter une attention particulière à l'élaboration des réglementations visant à soutenir le développement d'une structure de marché plus compétitive, qui réponde mieux aux besoins des clients et permette également de fournir une protection adéquate au consommateur.

Cette réglementation favorable à la concurrence doit prévoir au minimum des mécanismes appropriés visant à garantir que les consommateurs sont correctement informés des tarifs des taxis. Il faut accorder

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<sup>27</sup> Voir note n°9.

une attention soigneuse aux avantages pouvant découler du maintien d'une réglementation tarifaire formelle au moins à moyen terme, le temps de la transition. Toutefois la réglementation tarifaire doit être élaborée avec soin, de manière à ne pas faire obstacle à l'introduction de services innovants (par ex. tarifs élevés associés à des services de haute qualité). L'obligation pour tous les taxis de s'affilier à un central téléphonique est également susceptible de constituer dans la plupart des cas un moyen de maximiser la productivité des taxis et la concurrence sur le marché des centraux téléphoniques.

Une réglementation appropriée de la qualité peut s'avérer importante pour préserver la confiance des consommateurs sur un marché libéralisé, lorsqu'un nombre considérable de nouveaux prestataires est susceptible d'entrer sur le marché à la suite de l'abandon d'une politique particulièrement restrictive. Il convient de compléter cette réglementation par des normes relatives aux véhicules et aux conducteurs. Le renoncement à la déréglementation de l'accès au marché est souvent la conséquence d'intérêts acquis tirant avantage des situations de déséquilibre à court terme qui nuisent à la confiance des consommateurs. Le cas échéant, l'impossibilité de garantir le maintien de normes de qualité adéquates a souvent joué un rôle décisif.

Toutefois, même si le maintien d'une réglementation relative à la qualité est essentiel, il convient de veiller à ce qu'elle ne limite pas indûment le développement d'une vaste gamme d'offres capable de répondre largement aux besoins des clients. Notamment, sauf en cas de soucis légitimes de sécurité, un marché caractérisé par des tarifs bas et un faible niveau de qualité ne devrait pas être entravé par des interventions réglementaires. Il convient également de s'assurer que les réglementations restant en vigueur n'imposent pas de contraintes réglementaires en ce qui concerne le développement de services innovants ou la concurrence intermodale.

Lorsque les restrictions d'accès ont perduré et se sont accrues sur le long terme, les titulaires ont été les principaux bénéficiaires des rentes de monopole. La valeur élevée des licences commercialisables, qui reflète la valeur capitalisée des rentes de monopole attendues à l'avenir, constitue un obstacle politique important à la réforme et mène fréquemment à des propositions de réforme progressive. Toutefois, cette progressivité retarde considérablement les gains d'efficacité économique et les transferts aux consommateurs générés par la réforme. En outre, elle incite fortement les titulaires à stopper, voire inverser les réformes par un lobbying continu.

Pour ces raisons, des réformes immédiates sont généralement préférables à des réformes progressives. Lorsqu'une réforme progressive est inévitable, il est possible de maximiser ses chances de réussite par des stratégies visant à « verrouiller » le programme de réformes. Il convient notamment de formuler une politique large en ce qui concerne le secteur des taxis, en insistant sur son principal objectif, à savoir un marché efficace et concurrentiel, et sur l'importance des avantages pour le consommateur. D'autres stratégies consistent à commencer par esquisser un programme de réforme spécifique à long terme, à définir des indicateurs de performances vérifiables et à intégrer des mécanismes d'évaluation de la progression des réformes, puis à adapter le programme de réforme au fur et à mesure. L'intégration du programme de réforme à la législation peut également s'avérer utile pour minimiser les risques d'interruption ou d'inversion de la réforme<sup>28</sup>.

Lorsqu'une déréglementation immédiate de l'accès au marché est envisagée dans un contexte caractérisé par une sévère restriction de l'offre, il convient de s'attendre à des demandes d'indemnisation. Toutefois, l'expérience montre que les gouvernements ont peu de risques de faire face à une obligation légale de versement d'indemnités. En outre, dans ces circonstances, le coût élevé des indemnités fondées sur le prix du marché constituera certainement un obstacle important à la réforme, tout en créant un risque substantiel que la grande majorité des bénéfices de la réforme revienne aux titulaires des licences. Au

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<sup>28</sup>

Voir NCC (2002), p 5-20.

niveau politique, l'indemnisation des titulaires des licences pour la perte de leur droit de soutirer des rentes monopolistiques aux consommateurs peut être considérée comme inadmissible.

Pour toutes ces raisons, les gouvernements devraient se méfier des demandes d'indemnisation. Lorsque le versement d'indemnités est considéré comme inévitable, ou politiquement souhaitable, des approches fondées sur l'atténuation des difficultés financières ou sur une indemnisation correspondant au prix d'achat réel des licences (cf. la valeur réelle du marché) doivent être envisagées.

Enfin, si le maintien des restrictions réglementaires du nombre de taxis est considéré comme inévitable, des stratégies sont nécessaires pour minimiser la perte d'avantages imputable aux tentatives visant à garantir que le nombre de taxis s'approche le plus possible du niveau d'équilibre du marché libre. Le nombre de taxis doit notamment être fixé en fonction de règles objectives : en minimisant la portée des jugements discrétionnaires par les autorités réglementaires, il est possible de minimiser les risques importants liés à la capture de la réglementation. Dans l'idéal, les formules utilisées pour déterminer le nombre de taxis doivent se fonder sur les meilleurs indicateurs possibles de la demande.

Dans ces circonstances, il existe de solides arguments en faveur de la réglementation du nombre de taxis par les gouvernements au moyen de la vente ou de la mise aux enchères annuelle de permis, plutôt que de la vente de licences permanentes. Un mécanisme de vente annuelle permet au gouvernement de percevoir les éventuelles rentes économiques issues de la limitation du nombre de taxis, tout en prévenant un renchérissement de la valeur des licences, qui ferait obstacle à toute réforme ultérieure.

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## BELGIUM

### 1. Services de taxis et restrictions de concurrence

Le service de taxi est un service d'utilité publique<sup>1</sup>.

Le secteur des transports est une compétence régionale<sup>2</sup>. Dès lors, il appartient à chaque Région de se doter de sa propre législation relative aux taxis. Les 3 Régions organisent le secteur de manière indépendante (sous réserve des législations fédérales applicables). A ce jour, seules la région flamande et la région de Bruxelles-capitale ont adopté des nouveaux textes légaux. Ces textes remplacent donc la législation nationale préexistante.

Dans ce secteur, les prix ne sont pas librement fixés. La détermination d'un tarif maximum reste de la compétence du Ministre des affaires économiques<sup>3</sup>. Ce dernier peut, toutefois, dans certaines circonstances bien définies par la loi, accorder des dérogations au prix maximum<sup>4</sup>.

Le tarif applicable est le suivant (en vigueur depuis le 29 décembre 2005)<sup>5</sup> :

	Petites voitures	Grandes voitures	Frais d'attente	Prise en charge	Supplément forfaitaire nuit
<b>Sans périmètre*</b>	1,05	1,15	25/h	2,40	2
<b>Avec périmètre</b>	1,30	1,40	25	2,25	2

\*L'article 1 de l'arrêté ministériel du 25 juin 1975 fixant les périmètres pour le transport par taxis définit le périmètre comme « la ligne délimitant une zone à l'intérieur de laquelle le retour du taxi à son lieu de stationnement n'est pas porté en compte à l'usage du taxi »<sup>6</sup>. Un arrêt du Conseil d'Etat conteste la compétence au pouvoir fédéral de fixer le périmètre.

#### 1.1 Région Flamande

##### 1.1.1 Législation de base applicable

Décret du 20 avril 2001 (MB du 21 août 2001) relatif à l'organisation du transport de personnes par la route et à la création du conseil de la mobilité de la Flandre.

<sup>1</sup> Le service de taxi bénéficie d'ailleurs d'un régime fiscal avantageux.

<sup>2</sup> Depuis 1980, la Belgique est un état fédéral composé de Communautés et de Régions. Il y a trois Régions en Belgique : la Région flamande, la Région de Bruxelles-Capitale et la Région wallonne.

<sup>3</sup> Loi du 22 janvier 1945 sur la réglementation économique et les prix.

<sup>4</sup> Tel est le cas pour les villes de Gand, Anvers et, Bruxelles.

<sup>5</sup> Arrêté ministériel du 20 décembre 2005 (MB du 29 décembre 2005).

<sup>6</sup> Un recours (introduit par la Région flamande) actuellement pendant au Conseil d'Etat conteste la compétence au pouvoir fédéral de fixer le périmètre.



Arrêté du gouvernement flamand du 18 juillet 2003 relatif aux services de taxi et aux services de location de véhicules avec chauffeur.

### *1.1.2 Définition*

Le service de taxi y est défini comme : «le service de transport de personnes rémunérés à l'aide de véhicules avec chauffeur qui répondent notamment aux exigences suivantes : le véhicule est (...) adapté au transport de maximum neuf personnes (chauffeur compris), la mise à disposition a trait au véhicule ou à chacun des endroits de stationnement (... )».

### *1.1.3 Autorisation*

L'exploitation d'un service de taxi sur le territoire de la Région flamande est soumise à autorisation. L'autorisation est délivrée par l'autorité communale du lieu où l'exploitant a l'intention d'exploiter son service de taxi.

Il appartient toutefois au gouvernement flamand de fixer les modalités dans le cadre desquelles le collège compétent peut délivrer les autorisations. Ainsi, l'autorisation est délivrée après une enquête relative aux garanties morales, à l'aptitude professionnelle, et à la solvabilité du demandeur. L'enquête est de la compétence de l'autorité communale. Certaines communes exercent un contrôle plus rigoureux que d'autres<sup>7</sup>.

L'autorisation est délivrée pour une période de 5 ans renouvelable.

L'autorisation est personnelle et incessible<sup>8</sup>.

### *1.1.4 Restrictions quantitatives et tarifaires*

En région flamande, le nombre de taxis autorisés dans une commune est fonction du nombre d'habitants (1 véhicule pour mille habitants). L'autorité communale peut, toutefois, revoir cette limite, dans des cas bien déterminés, le cas échéant avec l'accord du Ministre compétent. En deçà de cette limite, l'autorité communale a l'obligation de délivrer les autorisations d'exploiter. Il s'agit donc d'un système de libéralisation régulée.

Le tarif applicable est fixé par l'autorité communale, dans les limites déterminées par le Ministre de l'Economie et l'autorité régionale. A défaut, l'autorisation d'exploiter contient le tarif applicable.

### *1.1.5 Conditions d'exploitation*

Les conditions d'exploitation sont définies par le conseil communal. Les conditions d'exploitation diffèrent d'une commune à l'autre au sein de la Région flamande. Ainsi, certaines communes ont adopté des dispositions relatives à la formation et d'autres pas.

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<sup>7</sup> Par exemple, en ce qui concerne la solvabilité financière, certaines communes exigent un plan financier et en contrôlent scrupuleusement le respect.

<sup>8</sup> Sauf les exceptions prévues par le décret.

## 1.2 *Region de Bruxelles capitale*

### 1.2.1 *Législation de base applicable*

Ordonnance du 27 avril 1995 relative aux services de taxis et aux services de location de voitures avec chauffeur<sup>9</sup> (ci-après, l'Ordonnance).

L'arrêté du gouvernement du 29 mars 2007 de la Région de Bruxelles Capitale relatif aux services de taxis et aux services de location de voitures avec chauffeur<sup>10</sup> (ci-après, l'arrêté du gouvernement).

### 1.2.2 *Définition*

L'Ordonnance définit comme suit le service de taxis : « ceux qui assurent, avec, chauffeur, le transport rémunéré de personnes par véhicules automobiles et qui réunissent les conditions ci-après : le véhicule (...) est apte à transporter au maximum neuf personnes – le chauffeur compris, (...) la mise à disposition porte sur le véhicule ou sur chacune des places du véhicule (...).

### 1.2.3 *Autorisation*

L'exploitation d'un service de taxi est soumise à autorisation. L'autorisation est délivrée par le gouvernement de la Région Bruxelloise. La délivrance de l'autorisation emporte obligation pour l'exploitant de mettre en circulation l'ensemble des véhicules pour lesquels l'autorisation a été délivrée. A ce jour, l'autorité régionale a délivré 776 autorisations.

L'autorisation est délivrée après une enquête portant sur les garanties morales, la qualification professionnelle, et la solvabilité du requérant.

L'autorisation est délivrée pour une durée de 7 ans renouvelable. Avant 2003, l'autorisation était délivrée pour une durée de 5 ans. Cette modification a été introduite à la demande du secteur.

Depuis le 1<sup>er</sup> novembre 2006, les autorisations sont personnelles et incessibles. Cette incessibilité est absolue.<sup>11</sup>

### 1.2.4 *Restrictions quantitatives et tarifaires*

Le nombre de véhicules pouvant être utilisé est limité. Ce chiffre s'élève, actuellement (depuis 2003) à 1200<sup>12</sup>. Auxquels, il faut, en outre ajouter 100 véhicules mixtes<sup>13</sup>.

La législation régionale se réfère à l'utilité publique pour justifier cette restriction. La limitation est définie par le gouvernement régional en fonction des besoins<sup>14</sup>.

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<sup>9</sup> MB du 1 juin 1995.

<sup>10</sup> MB du 3 mai 2007.

<sup>11</sup> Cette mesure a été adoptée afin d'enrayer les fraudes. Les autorisations accordées avant l'entrée en vigueur de cette disposition restent cessibles.

<sup>12</sup> Soit 1 taxi pour 1000 habitants.

<sup>13</sup> Seuls 70 véhicules sont en circulation.

<sup>14</sup> Article 5 de l'Ordonnance du 27 avril 1995.

### *1.2.5 Conditions d'exploitation*

Les conditions d'exploitation sont fixées par le gouvernement de la région bruxelloise. Ces conditions ont trait aux exploitants, aux véhicules, et aux chauffeurs. En ce qui concerne ces derniers, ils doivent être porteurs d'un certificat de capacité.

Le certificat de capacité est délivré après la réussite d'une formation et de divers tests comportementaux. Ce n'est qu'à l'issue de la réussite de ces tests que le candidat-chauffeur pourra suivre la formation (obligatoire). Le candidat chauffeur devra en outre, réussir un examen théorique (comportant une épreuve écrite et une épreuve orale) et un examen pratique<sup>15</sup>.

L'âge minimal pour exercer la profession est fixé à 21 ans.

L'arrêté du gouvernement impose aux chauffeurs de taxi de porter une tenue correcte. L'arrêté du gouvernement définit ce qu'il faut entendre par tenue correcte.

En ce qui concerne le véhicule, il ne peut pas être trop vieux (maximum 7 ans).

### *1.2.6 Evolution en Région Bruxelloise*

Ces dernières années, les modifications de la réglementation intervenues se justifiaient principalement eu égard aux exigences de simplification administrative.

D'autres projets actuellement en cours d'examen ont pour objectif d'améliorer le service des taxis et donc l'attractivité. Ces projets concernent notamment le changement des emplacements de taxis ou l'amélioration des vitesses commerciales (en utilisant les sites réservés aux bus).

Enfin, Les autorités régionales organisent chaque année une enquête de satisfaction destinée à anticiper les attentes des clients et du secteur.

## **1.3 Region Wallonne**

### *1.3.1 Législation de base applicable*

La Région wallonne n'a pas encore adopté une législation. Dans ces circonstances, la loi du 27 décembre 1974 (et ses arrêté d'exécution) reste d'application aussi longtemps que l'autorité régionale n'a pas adopté d'autres dispositions.

L'année dernière, le gouvernement wallon a adopté un projet de décret relatif aux services de taxi. Le texte devrait être soumis (très) prochainement au Parlement wallon.

### *1.3.2 Définition*

Les services de taxi sont ceux qui assurent avec chauffeur, le transport rémunéré de personnes, par véhicules automobiles, et qui réunissent notamment les conditions suivantes :

- le véhicule est apte à transporter au maximum 9 personnes
- la mise à disposition porte sur le véhicule et non sur chacune des places

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<sup>15</sup> En cas d'échecs successifs (3), le candidat ne sera admis à représenter les examens que trois ans après la dernière tentative.

- la destination est fixée par le client

En ce sens, la définition exclut le taxi collectif.

### 1.3.3 *Autorisation*

L'autorisation d'exploiter un service de taxi est délivrée par (...) le collège des bourgmestre et échevins.

L'autorisation reste valable 10 ans.

La délivrance de l'autorisation est subordonnée à une enquête portant sur les garanties morales, la qualification professionnelle et la solvabilité du requérant.

L'autorisation est personnelle et incessible. Néanmoins, il existe des possibilités de transfert très limitées<sup>16</sup>.

### 1.3.4 *Restrictions quantitatives et tarifaires*

Actuellement, il n'y a pas de restrictions quantitatives en Région wallonne. Toutefois, l'article 4 de la loi du 27 décembre 1974 prévoit que l'autorisation est délivrée en fonction de l'utilité publique du service. En outre, l'arrêté royal du 21 mars 1975<sup>17</sup> relatif aux conditions d'exploitation des services de taxis laisse aux autorités communales le soin de définir les conditions d'exploitation notamment quant à l'organisation et l'intensité du service. Les communes ont donc la possibilité de contrôler le secteur.

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<sup>16</sup> Le titulaire de l'autorisation qui cesse son exploitation peut la céder à une personne morale, à condition que le cédant s'engage à participer à la gestion de l'entreprise pendant trois ans au moins, ou jusqu'au terme de l'autorisation si celui-ci arrive dans un délai plus court.

<sup>17</sup> M.B. du 9 avril 1975.



## CZECH REPUBLIC

### 1. Introduction

Taxi service is a very important part of the public transport. Its main importance inheres particularly in the “door-to-door” service, its boundlessness regarding the time expansion in which the taxi service is provided and last but not least in an easier availability for people with restricted mobility.

This report describes in brief the situation in taxi services in the Czech Republic. After the initial identification of main problems in taxi service market the report defines the aim of law regulation, the entry conditions that are necessary for taxi service operation, as well as claims the law poses on the price charged for taxi service and conditions applying to the quality of services provided. The final provisions deal with the supervisory authorities and reforms executed in the taxi service area that are completed by graph images of the analyses conducted.

### 2. Taxi services in the Czech Republic

In the Czech Republic a taxi service is provided entirely by private subjects. However, till the 1990s it was the state that provided it. The taxi service is considered a concession licence pursuant to the *Act No. 455/1991 Coll., on Trade Licensing as amended by subsequent acts* (thereinafter the Licensing Act). With regard to the need to assure quality and secure services the taxi service may be operated only after fulfilling the conditions set by law. The definition of the taxi service is given in *Act No. 111/1994 Coll., on Road Transport as amended by subsequent acts* (thereinafter the Road Act).

#### 2.1 Market failure

The main problem that appeared in the taxi services area was charging of high prices for the taxi services provided, mainly in the Czech capital of Prague. The reason why the failure appeared mainly in the capital of Prague is the presence of foreign visitors who do not have sufficient information about the general level of prices charged for the taxi services<sup>1</sup>.

The restriction on the possibility for some taxi service operators to offer their services in lucrative localities (mainly in Prague), the restriction on the choice of the taxi in places with the so-called “first car first” manner, the behaviour of drivers toward the customers and even among themselves (e.g. the reluctance against providing the taxi service for a shorter distance, not issuing the ticket from the taxi-meter and so forth), all these can be mentioned as additional market failure.

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<sup>1</sup> Otherwise there is a general tendency, not only from the Town-council of the Capital of Prague, to inform about the conditions under which the taxi service could be provided, about the maximum prices charged and also about procedures when attending the complaints on the taxi service. The Capital of Prague is also preparing an informational campaign targeting the foreign visitors. An informational booklet with information about transport options in Prague, including the use of taxi service, should be published. The aim of the campaign is to improve the whole taxi service system.

## 2.2 *Aim of regulations*

The main aim of the taxi service regulation is to assure quality and secure services to the consumers. To this aim serve mainly the duties posed by law on the operators and drivers of the taxi services and also on the equipment and identification of the cars. In consequence of the above mentioned market failures a price regulation is needed.

## 2.3 *Entry regulations*

The taxi service operation is regulated mainly by the Road Act and the *decree implementing this act No. 478/2000 Coll.* The Act defines the taxi service as a public road transport by which the transport of people and their baggage is provided by cars with maximum occupation of nine persons including the driver; the transport services are offered and the orders for transport are accepted through the driver at the taxi service station, on publicly accessible ground communications and other public places or through taxi service dispatching centre.

The taxi service operator may operate the taxi service only on the basis of a received license deed<sup>2</sup> which the operator may receive after demonstrating skilled competence. The skilled competence to operate the taxi service is demonstrating via an exam<sup>3</sup> consisting of subjects provided by the decree mentioned above or via a certificate on completed secondary school education which corresponds with the demands of skilled competence. Everyone who fulfils the conditions given by the legal regulations may obtain the particular license deed entitling the concession operation.

The taxi service operator may be either a natural or a legal person. Provided the operator is a legal person, the operator may in framework of employment relation employ a driver. The taxi service operator is competent especially to operate the taxi service only by a car registered at a transport office and is obliged to assure the car to be in the course of the taxi service labeled with a yellow lamp with TAXI writing on the roof, equipped by legalized taxi-meter put under lead and with a price list with an unabridged view of prices for the transport services containing all tariffs inserted to the taxi-meter memory unit, that has to be placed visibly for the passenger. According to the law amendment, in the upper half of the outside of both the front doors there has to be information about the actual offer of prices for transport service realization in the community where the transport service is offered. According to the valid law amendment there is a duty assigned for the taxi service driver to give out, without requisition, the evidence on the fare payment, which is exclusively the output of the taxi-meter.

The taxi service driver has to be older than 21 years and has to be upstanding and credible<sup>4</sup>. On the basis of the fulfilment of these conditions a licence is issued documenting the competence of the driver to practise the taxi service<sup>5</sup>.

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<sup>2</sup> The license deed is issued on the basis of Licensing Act and represents an evidence of the trading license to certain activities stated in appendix III of this Act.

<sup>3</sup> The content of the exam is formed by demonstration of knowledge of legal regulations governing the road transport, conditions of car traffic on ground communications, safety at work and of technical equipments in the course of usage, cars maintenances and repairs, prices, fees, taxes and tax examinations, insurance, work law relations, knowledge of international agreements governing the international road transport, knowledge of the basis of the business law relations and technical knowledge needed for road transport operation.

<sup>4</sup> The definition is more closely described in § 9 clause 3 of the Road Act.

Conditions mentioned above govern in general on the whole area of the Czech Republic. To improve the services the municipalities may set out other conditions for taxi services operation, as given below.

In the Czech Republic there is not a restriction on the number of licences entitling the taxi services operation, however, the licences are not further transferable. The license deed entitling the taxi service operation is not locally restricted. The only restriction concerning the place of business exists from municipalities if they exploit the possibility to regulate some concerns in their scope (see below); however, it is a condition adjustment only in cases the taxi service is provided in the area of a given community. In the Czech Republic there are no rules governing the conditions for taxi services provided outside the municipal area except the generally valid principles (the Price Act, technical condition of the car service, security of the traffic operations and so forth)<sup>6</sup>.

The Trade Licensing Department of the Ministry of Industry and Trade administers the evidence of number of carriers who operate a concession licence with the "taxi service" as the subject of business. On June 30, 2007 11 898 taxi services were registered.

**Table 1. The total number of concessions registered in the Trading License Register to the end of the year**

<b>Year</b>	<b>2000</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
<b>Total Road Transport</b>	68 062	70 460	71 760	73 227	74 971	76 148
<b>Road Motor Public Passenger Transport</b>	9 002	6 857	6 736	6 860	7 191	7 270
<b>Road Motor Freight Transportation</b>	59 060	63 603	65 024	66 367	67 780	68 878
<b>Taxi service cars</b>	14 888	14 976	11 668	11 822	13 549	12 290
<b>Inland Waterway Transportation</b>	416	307	248	252	292	264
<b>In Total</b>	83 366	85 743	83 676	85 301	88 812	88 702

On February 2, 2006 14 taxi service operators with 25 employees and more functioned in the area of the capital of Prague.

<sup>5</sup> The driver's licence enabling him to practise the taxi service is a public document and is issued with five year validity period. The taxi service operator has to provide that the licence is placed on a visible place in the taxi service's car.

<sup>6</sup> Further, mainly in the Capital of Prague, from the viewpoint of the private subjects the restrictions exist. This apply e.g. to some hotels which own also the adjacent parking and do not enable the taxi services drivers to use these places. It happens then that the hotel guests use either taxi service called by the hotel or the so-called occasional road transport ordered by the hotel. Other example may be the access of the taxi services cars to the international airport Ruzyně where these do not have a full access to the arrival hall. In year 2005 the Airport Prague Company put up a competition on taxi services operators on Ruzyně Airport and only the winning company and contract carriers may stand on the communication before the arrival hall. Other taxi cars may come to the airport area, however, for parking they have to use the adjacent parking place.



**Table 2. Numbers of taxi service cars registered in the capital of Prague in the individual years**

<b>Year*</b>	1996	1997	1998	1999	2000	2001
<b>Cars</b>	4.161	3.577	4.577	5.277	5.138	4.026
<b>Year</b>	2002	2003	2004	2005	2006	
<b>Cars</b>	4.455	4.894	5.322	5.477	5.561	

\*on June 8, 2006

*Source : Explanatory Report to the Capital of Prague Restriction on Maximum Private Taxi Services Prices*

In addition to the taxi services the Act governs the so-called occasional public road transport, which is, however, non-public passenger transport. The operator of such a transport is obliged to assure that the passenger cars used by the operator are not labeled in a way confusable with the taxi services cars and the transport services offered by the operator are not offered the way confusable with the taxi services. To receive orders for this kind of transport is possible only through the order for the transport service in advance (in writing, by phone, fax or electronically) – in the residence or plant of the legal person, in the place of the permanent residence of the operator or in the place of business in the case of natural person. The operator of the occasional passenger road transport is obliged to note the order for the transport service to the evidence book of orders in advance and assure the driver will on request submit it to the control body. The operator is also obliged to assure that the transported person will not pay for the transport directly to the driver<sup>7</sup>.

## 2.4 Fare Regulations

The jurisdiction of the Czech Republic authorities in the area of prices is provided by the Act No. 265/1991 Coll., on the Jurisdiction of the Czech Republic Authorities in the Area of Prices, as amended by subsequent acts.

The price regulation (i.e. the setting or direct rectification of prices) is provided by price and local authorities. For the price regulation to be executed one of the following alternatives has to happen: the market is threatened by impacts of competition restriction or it is caused by an exceptional market situation. In the Czech Republic the central price and control body is the Ministry of Finance (thereinafter the MF). The local authorities (i.e. relevant regional and municipal authorities) may execute the price regulation only in the scope and under the conditions stated in the MF resolution. Since 1997 when the regulation was imposed a list with regulated prices has been stated in framework of a yearly MF Bill of Quantities according to which the regions or municipalities may set up by a resolution among others the maximum prices in the scope of and under conditions stated by the Price Act. According to the mentioned Bill of Quantities the local authorities may, but they do not have to, exploit their power to the price regulation, i.e. to apply and to set the maximum prices for taxi services (the drive) that was started and finished in the area of the same municipality.

From the above mentioned it results that the regulation applying to the maximum price fixing is realized on the local level, whereas it is up to the local authorities, whether they want to impose the

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The problems are particularly in the very abrupt regulation of duties posed on the occasional road transport operators. Despite the conditions declared by the law this transport is often offered by a way confusable with the taxi service and with consecutive charging of a “free” price it becomes an unacceptable competition to the taxi service. The prices for operation of this “contract transport” are not regulated and are concerted between the operator and the consumer. By payment of the required price the price is concerted and it is not possible to refer additionally to the inadequate price.

regulation or not. At present in the Czech Republic most of the biggest municipalities exercise the price regulation, e.g. the capital of Prague, and also Brno and Karlovy Vary.

**Table 3. Examples of maximum prices announcement (valid at present)**

<b>Rates in EUR* (1 EUR = 27,6 CZK)</b>	<b>Praha</b>	<b>Brno</b>	<b>Karlovy Vary</b>
<b>Single rate per drive</b>	1,45	1,09	0,91
<b>Waiting (per minute)</b>	0,22	0,11	0,18
<b>Drive in municipal area (per km)</b>	1,01	0,91	1,27

\* On June 8, 2006

Source : *Explanatory Report to the Capital of Prague Restriction on Maximum Private Taxi Services Prices*

In the capital of Prague the regulated maximum price for taxi service was calculated with regard to the average yearly expenditure executed by the taxi service operators in the course of the first six years upon buying a new car (car price, car maintenance and service, tyres, security equipment, taxi-meter, radio station lease, fuelling, car wash, administrative costs, road tax, damage liability, car labelling, small repairs and labour costs) and an adequate profit. By the price regulation the town-council stemmed from different labour costs of the entrepreneur – individual private entrepreneur – and employer – a legal person. The resulting calculation was, however, for both the categories the same.

The Town-council of the capital of Prague substantiated the price regulation both by quoting the Price Act according to which the market in the taxi service sector in Prague is still endangered by impacts of restriction on competition and by consumer protection, particularly of foreign visitors in Prague.

## **2.5 Quality regulations**

The regulation of taxi service “quality” is contained particularly in the Road Act and other specific legal regulations (e.g. Act No. 56/2001 Coll., on Conditions of Motor Vehicle Operation on Ground Communications and on an amendment No. 168/1999 Coll., on Responsibility Insurance for the Damage Caused by a Motor Vehicle Operation and on amendment of some coherent acts (the Act on the Insurance of Responsibility for Car Operation) as amended by Act No. 307/1999 Coll.). These regulations are uniform for all taxi service operators. It concerns particularly the regulations which assure the satisfaction and mainly the safety of the consumer.

The general regulation of taxi services’ quality is valid in the whole area of the Czech Republic. Furthermore the Road Act enables the corporate towns, the capital of Prague and the municipalities with more than 20.000 inhabitants to set by a general obligatory decree a duty on the driver to prove knowledge of topography, legal regulations governing the taxi service and consumer protection, knowledge of taxi-meter control and the way of the exam execution as a condition for working as a taxi driver in the municipal area. After passing the exam the taxi driver receives a certificate with a time and territorial scope of its validity.

According to the Road Act the municipalities may also by a general obligatory decree for taxi service station set conditions for concluding a contract with legal or natural persons on the station usage, conditions for the station usage and operating regulations governing rules of operation on the taxi service station including the price conditions consistent with local conditions of operation rules<sup>8</sup>.

<sup>8</sup> The capital of Prague has done it by a decree No. 18/2006 by which it has issued operation regulations and stated conditions under which the taxi service stations, established on local communications in ownership of the capital of Prague, are used. These operation regulations among others contain the new consequent

In the legal regulations there are set both the general presumptions for any motor vehicle to be a component of the transport operation and the supplementary duties for taxi service cars. Among those supplementary duties are:

- A duty to use a car registered in the Czech Republic and with a registration number of the Czech Republic; from which (the car's) technical revisal and emission measurement did not expire a longer period than set in a special legal restriction;
- A duty to use a car which is according to the law technically eligible for operation;
- A duty to assure that the condition of the car's technical basis matches its equipment and scope with the taxi service operation;
- Car repair (excluding small repairs) have to be made on places intended for it;
- A duty to have a fire extinguisher of an approved type in the car
- A duty of the taxi service operator to assure that for the taxi service is used only a car equipped and labeled as the law constitutes.

Further, a domestic carrier, consistent with a directly usable regulation of the European Community<sup>9</sup>, is obliged to assure that the taxi drivers abide the driving time, the times of safety pauses and times of rest, as set in regulations. Further, the carrier is obliged to assure that during the taxi service operation there is an evidence in the car, that the driver has participated on a training of driver careers and that he passed out a revision from the road operation rules, and further an evidence that the driver has undergone a regular physical examination and that according to this examination his or her health status allows him or her to drive a motor vehicle.

Other duties by which the quality and safety of the services would be increased are not constituted in the legal restrictions. The Road Act and its implementing provisions only constitute, in addition to the mentioned duties, conditions for taxi service car labeling<sup>10</sup> concerning the taxi service car equipment (certificate, taxi-meter and so forth). In thus stated duties the improvement can be seen only in the simplification of the customer's orientation and in the tendency to avoid confusing of the taxi service car

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demands on the car size, a uniform color, the age of the car, air-conditioning equipment, ban on smoking. In order to improve the taxi services, which is one of the main aims of the capital of Prague, an institute of the taxi service stations with a governor was established. Those governors have the particular station in lease and are obliged to guarantee a maximum fare set by the capital of Prague. In addition, on these particular places labeled with FAIR PLACE there is guaranteed by the governor the following: a secure drive, a professional approach of the drivers and the total high level of services provided. Information on the Taxi Fair Place will also be available in printed materials in CSA planes.

<sup>9</sup> Article No. 2 of EEC Council Regulations No. 3820/85 on Harmonization of Certain Social Law Regulations in Road Transportation.

<sup>10</sup> In the course of enlistment of a taxi service car in the register the taxi service car has to have on the outside upper part of both the front doors the following label, in rank from above downwards, however, not magnetically or fast recoverably fixed: a) an intermittent black and white fascia made alternately by a rectangle with 90 x 50 mm proportions, while the longer side of the rectangle is in horizontal position and the distance from the lower border of the side windows may not be longer than 100 mm; the fascia starts on the front border of the front door and ends on the back border of the back door, b) an evidence number of the car, well legible, made black on a white background by letters 90 mm high at least, c) a brand name made black on a white background.

with another car and the incidental deception of the customers. The restriction in the choice of the taxi service, when e.g. the consumer has to choose the first taxi service car in rank, does not exist on the legal level<sup>11</sup>.

## 2.7 *Organizational regulations*

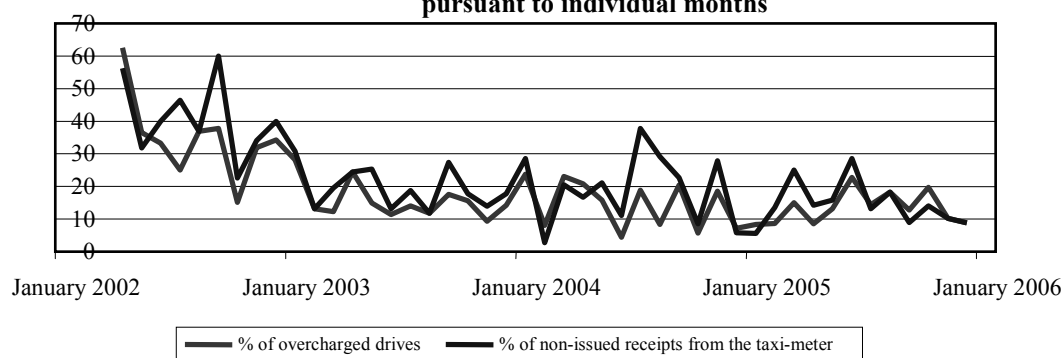
Taxi drivers are not obliged to be bound to the radio dispatching by a contract<sup>12</sup>, they could receive the orders for transportation also at the taxi service stations and on publicly accessible ground communications and on other public places. In this sense this regulation does not exist in the Czech Republic, however, it is necessary to point out that majority of drivers exploit these services. Yet in the course of the taxi service operation the driver is obliged to regard required cautiousness in order not to danger the safety and fluency of operation on the ground communications.

## 2.8 *Regulatory oversight mechanism(s)*

A Transport department of the relevant municipality exercises the supervision over the restrictions observance in the field of taxi service operation. This supervision is done by municipalities in framework of the so-called delegated powers which means that the local authorities exercise the government administration. Thus neither the deputies of taxi service operators nor the deputies of consumers participate on the oversight of the restrictions observance.

The individual municipalities pursue their own examination and inspection of the legal regulation observance, e.g. at established taxi service stations, in form of a supervisory drive or monitoring of appeals or administrative proceedings against taxi service operators/drivers. In the Town-council of the capital of Prague the Bureau of Transportation executes the inspection of the law observance and the observance of the maximum rates and in consequence of the inspection findings executes the administrative proceedings. In Prague the inspections showed e.g. that the number of complaints is lower in case where the taxi service is ordered through the radio dispatching. In the charts below there are both the development of the found overcharges and non-issues of receipts from the taxi-meter; and the number of supervisory drives and percentage references of overcharges and other violation of valid legal restrictions.

**Table 4. The development of found % of overcharges and non-issues of the receipts from the taxi-meter pursuant to individual months**



Source: *Explanatory Report to the capital of Prague Restriction on Maximum Private Taxi Services Prices*

<sup>11</sup> e.g. in framework of the Transportation Condition for Taxi Service Operation in the area of Brno it is explicitly set that the customer has a choice to choose an arbitrary car, irrespective of the rank the car has on the taxi service station.

<sup>12</sup> The taxi service radio dispatching mediates operatively an immediate and prompt transport of persons and their baggage only by taxi service motor cars on the basis of an order on the phone.

**Table 5. The number of supervisory drives and percentage references of overcharges and other violation of valid legal restrictions from the number of supervisory drives in the years 2002-2005:**

Year	Number of supervisory drives	% of overcharged drives	% of non-issued receipts from the taxi-meter
2002 (since April 4 <sup>th</sup> )	453	32,67	35,76
2003	563	15,63	19,01
2004	501	14,57	17,96
2005	674	13,65	14,54
In total	2 191	18,30	20,86

Source: Explanatory Report to the capital of Prague Restriction on Maximum Private Taxi Services Prices

In the taxi service regulation area the main aim is the consumer protection.

The Office for Protection of Competition (thereinafter the Office) does not play any role in the taxi service regulation area, particularly because of the fact, that the supervision over these services, as mentioned above, is decentralized. The Office executes the supervision only in individual cases, either *ex officio* or on the basis of a complaint, whereas none of its investigations led to administrative proceeding in recent years.

## 2.9 Reforms and effects

The 1994 Road Act proposal resulted from the conception of a minimum intervention of state into the business activities in road transportation, e.g. the taxi service remained without any regulation. In fact, this act remained even nowadays in the same version, however, in 1997 there was a little change in conditions the taxi driver has to fulfill (age, incorruptness), and in 1998 the law set a possibility to issue a general obligatory municipality decree demanding a documentation of cartography knowledge, legal restrictions and so forth (see above).

In the price regulation area opinion collisions appear among the taxi service operators and supervisory (local) authorities. The taxi service operators object to the fact that the price regulation is not set suitably and that the price does not correspond with the executed expenses and the adequate profit<sup>13</sup>. It is possible to perceive certain pressure from the taxi service operators on an increase of the regulated fare, eventually a revocation of a fixed maximum fare, which is, however, fixed only in few cities in the Czech Republic.

As there are not available outcomes of supervision for the whole area of the Czech Republic, it is slightly problematic to identify the total efficiency of executed changes of legal adaptation. The individual changes are imposed with a difficulty for fear of an excessive regulation of the taxi service area and thus subsequent restrictions of functioning of free market economy. Furthermore, the restrictions the municipalities issue, with the aim to regulate the taxi service, have to result from the legal authorization and must not exceed the scope they can legally regulate. The question is, whether the general legal adaptation valid for the whole area of the Czech Republic is desired, with regard to a different importance of these problems on the local level.

## 2.10 Conclusion

There can be perceived a step-by-step improvement of the situation in the taxi service area in the Czech Republic. It is so due to the increased effort to inform the broad public, including foreign visitors, about both the price level and quality of provided services and local investigation execution. After the initial

<sup>13</sup> The taxi service operators substantiate thus especially non-observance of the set prices.

price freedom it was necessary to execute a price regulation, which is the fundamental problem at the moment, with regard to a slightly difficult situation regarding the fixing of the “suitable” maximum prices.

Into the future it is possible to consider a whole-areal analysis in the taxi service market to reveal the overall situation in the taxi service area and from this analysis deduce the appropriate legislation changes. In principle, there are two opinion streams on the legal taxi service regulations. On the one hand there are consumers and supervisory authorities who struggle for taxi service regulation<sup>14</sup> to achieve certain level of quality of the services provided; on the other hand there are mainly taxi services operators who call for price deregulation. The aim of the regulation is mainly to get the taxi services to the sphere of a respectable business and thereby to increase the prestige of the Czech Republic concerning the services provided to the foreign visitors.

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<sup>14</sup> Voices appear, whether the number of awarded concessions should not be restricted.



## DENMARK

### 1. Introduction

According to the Danish legislation taxi services are defined as commercial conveyance of passengers in a motor vehicle carrying a maximum of 9 passengers including the driver. The Danish legislative and regulatory framework on taxi services covers the following issues:

- Entry regulations
- Limitations on the total number of taxis
- Geographical limitations
- Limitations as regard the choice of corporate form
- Decentralized administration of the regulation
- Organisational regulations
- Fare regulation (maximal fares)
- Service requirements
- Quality regulation
- Special regulation on taxes and dues

### 2. Entry regulations

In order to be entitled to apply for a taxi license the applicant must fill certain requirements. The requirements cover inter alia the economic position of the applicant, qualifications and conduct. In addition there are requirements as regard the qualifications and conduct of the taxi driver and the condition of the taxi.

An applicant for a taxi license must pose a minimum of 50.000 kr. in cash or other valuables, the applicant is not allowed to have a considerable debt to the public authorities, and the applicant must not have filed for suspension of payments or bankruptcy. As a general rule the applicant must in the last 10 years have completed a course and an exam documenting the necessary skills in relevant subjects. The applicant must have been employed with the commercial conveyance of passengers for a minimum period of 3 years. Finally the applicant must not have been convicted for a felony, which involves a reasonable risk of misuse of the license.

A taxi driver must have a driving license to perform commercial conveyance of passengers and the driver must - as a general rule - in the last 10 years have completed a course and an exam documenting the necessary skills in relevant subjects. The driver must master the Danish language and must document



satisfactory knowledge on the geography of the local area. A driver must not be convicted for a felony, which involves a reasonable risk of misuse of the employment.

### **3. Limitations on the total number of taxis**

In order to be able to provide taxi services a taxi license is required. The city council in each municipality (and in the Copenhagen region the Greater Copenhagen Taxi Board) determines the total number of taxi licenses available within its jurisdictions. The city council issues licenses for a maximum period of 10 years taking into account the objective to ensure that the general public in the entire municipality gets a satisfactory service. Taxi licenses are issued to the applicants best qualified.

### **4. Geographical limitations**

Taxi services are subject to geographical limitations. As a general rule a taxi driver is only permitted to operate within the municipality, where the taxi license is issued. Taxi drivers are not allowed to pick up passengers outside the “home zone”, unless the taxi service is booked in advance. Moreover taxi drivers are only allowed to use the taxi rank in the municipality where the taxi license is issued.

In 2006 the taxi legislation was changed. The minister of transport and energy can, after consulting the relevant municipalities, approve that a city council issues taxi licenses which comprise the right to provide taxi services in e.g. airports outside the municipality.

### **5. Limitations as regard the choice of corporate form**

The taxi license holder must carry on the business as a private firm and are not permitted to carry on the business in corporate form. This requirement relates to the limitation on the number of taxi licenses.

### **6. Decentralised administration of the regulation**

The regulation of taxi services is as a general rule subject to decentralized administration by the local city councils in the relevant municipalities. In the Copenhagen region the administration is handled by the Greater Copenhagen Taxi Board. In addition the Danish Ministry of Transport and Energy is the authority supervising technical and educational specifications.

### **7. Organisational regulations**

In order to be able to provide taxi services a taxi license is required. The city council in each municipality (and in the Copenhagen region the Greater Copenhagen Taxi Board) determines the total number of taxi licenses available within its jurisdictions. The city council issues licenses for a maximum period of 10 years taking into account the objective to ensure that the general public in the entire municipality gets a satisfactory service.

In municipalities where more than 10 licenses are issued the taxi license holders are required to establish and join a dispatch centre. With the support of 10 license holders in the same municipality an additional dispatch centre can be established on condition that a total of 20 licenses or more are issued and only one dispatch centre is already established in the municipality.

Dispatch centres in the same municipality can be operated jointly with the approval of the city council, and dispatch centres services in different municipalities can be operated jointly with the approval of the relevant city councils.

The dispatch centres' aim are to establish contact between the license holders and the public in order to ensure that the general public gets a satisfactory service. Each dispatch centre and its manager must be approved by the local city council. The dispatch centre must have telephone- and radio equipment at disposal and must provide a 24 hour dispatch service. The dispatch centre must establish a duty roster to provide that orders can be carried out as soon as possible. The dispatch centre is obliged to distribute the orders equally between the connected license holders. The taxi license holders are obliged to be connected to the dispatch centre and must fill the orders that they receive. Besides carrying out telephoned orders the license holders are entitled to pick up costumers from the street.

The management of a dispatch centre can impose a disciplinary fine on a license holder who does not participate in the measures established to serve the general public. Under special circumstances, and with the approval of the relevant city council, the management can exclude a license holder who seriously violates the articles of the dispatch centre.

The articles for a dispatch centre must hold the conditions for affiliation and must be drawn up according to a standard article. The Danish Eastern High Court has ruled that the fact, that the articles of a dispatch centre oblige the connected licence holders to charge fares fixed by the management, constitutes a restriction on competition inconsistent with the Danish law on competition.<sup>1</sup>

The dispatch centre can provide bookkeeping service for the connected license holders relating to the management of larger taxi service agreements and co-operation as regard the mutual clearing of taxi vouchers and account cards. The Danish Competition Council has ruled that the exclusion of a single dispatch centre from an existing co-operation on mutual clearing of taxi vouchers and account cards is incompatible with the Danish law on competition.<sup>2</sup> The preparation and implementation of the exclusion constitutes a concerted practice restrictive on competition. Further more the exclusion constitutes an abuse of collective dominance by the participating dispatch services.

The dispatch centre is usually owned by the taxi license holders. The form of ownership of the dispatch centre is not specified by the taxi legislation. The dispatch centre can be owned by an economic community in which each license holder owns a part. The dispatch centre can also be established as a co-operative society or a private limited company. In addition the license holder pays a network fee in order to be connected to the dispatch centre.

The license holders are able to choose between dispatch centres on condition that more than one dispatch centre is established in the municipality, where their licenses are issued. The license holders are not able to choose between dispatch centres established in different municipalities, unless the municipalities have agreed on establishing jointly operated dispatch centres.

The general principle of the taxi regulation on dispatch services is that the taxi license holders are required to establish and join a dispatch centre in municipalities, where more than 10 licenses are issued. Never the less the city council can temporarily or for an unlimited period of time choose to suspend a license holders obligation to belong to a dispatch centre on condition that the service of the general public is taken into account. The access for the municipalities to exempt from the requirement to be connected to a dispatch centre has been extended as of January 2007.

The number of municipalities in Denmark has been reduced from 277 to 98 as a result of a structural reform of the decentralized administration. The reform entered into force by January 2007. At the same

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<sup>1</sup> Judgment of the Danish Eastern High Court on 14. May 2003.

<sup>2</sup> Decision of the Danish Competition Council on 31. May 2006 and decision of the Danish competition Board of Appeals on 16. January 2001.

time a change of the taxi regulation came into effect mainly to take into account the consequences of the structural reform and the fact that the municipalities have become larger entities. The change also provided the legal basis for establishing local government communities to manage the taxi regulation in the participating municipalities.<sup>3</sup>

As a result of the municipalities becoming larger entities, with a higher number of licenses issued, more license holders are obliged to belong to a dispatch centre.<sup>4</sup> Consequently the regulation on the city councils access to exempt from the requirement to be connected to a dispatch centre has been changed. The change has implied that the access to suspend a license holder's obligation to belong to a dispatch centre is no longer limited to municipalities with a total population less than 20.000. The change has also implied that exempt license holders are no longer required mainly to service the non urban areas in the municipality.

The aim of the change was to ensure that the structural reform does not create difficulties for license holders with smaller business' and to enable the municipalities to provide a satisfactory service to the general public, including a flexible and rational utilization of the taxis. The change also takes into account that the municipalities have the option to establish local government communities to manage the taxi regulation, which will imply that larger geographic areas will be subject to a uniform administration of the regulation and that more license holders will be obliged to belong to a dispatch centre.

## **8. Fare regulation (maximal fares)**

### **8.1 *Weighted Cost Index***

In Denmark taxi fares are regulated and set by local or provincial authorities. The fares are set as a maximal fare. Since 2001 the Greater Copenhagen Taxi Board has used a Weighted Cost Index (WCI) to set fares in the Copenhagen region (about 50 pct. of all taxis in Denmark). The index is made in co-operation with Statistics Denmark. Other authorities in Denmark set their fares in accordance to the WCI movements. Thereby the WCI set the fares in the majority of regions in Denmark. The Danish Competition Authority has no knowledge of other methods used to determine taxi fares in other regions.

### **8.2 *Components of WCI***

WCI is a composite index developed for purposes of setting taxi fares. WCI is a quarterly calculated weighted index based on four main cost components, labour costs, direct vehicle costs, capital costs and other costs. The four components are weighted after their importance, so each weight reflects the share of costs for an average taxi operator. The weights are fixed. The index then adjusts according to cost movements in the four components, but with different intensity because of the weights.

*Labour costs* include salary/provision, pension, and other payments to a taxi driver. As a proxy for labour costs for taxi drivers is used an index of average earnings in transport industry (train, lorry, bus).

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<sup>3</sup> The law reform presupposes that the Greater Copenhagen Taxi Board will be abolished, when the municipalities in the Greater Copenhagen area have established a local government community to manage the taxi regulation.

<sup>4</sup> The structural reform and the fact that the municipalities have become larger entities have other consequences and will among other things have an impact on the geographical limitations set out in the taxi regulation.

*Direct vehicle costs* include costs directly linked to the performance as taxi operator, e.g. network fees, membership fees, comprehensive insurance, repairs and maintenance, spare parts, tyres, car washing, petrol. Information of the price movement of various components is gathered from taxi companies, price indices, petrol- and insurance companies.

*Capital costs* include the purchase price of a vehicle, vehicle registration costs and interest rates. In Denmark it is impossible to sell a taxi licensee. Thus there exists no market for medallions. A price index for domestic supply is used as a proxy for the purchase price of a vehicle. Vehicle registration costs are gathered from the Tax Administration (SKAT). The interest costs are calculated as an average return on all government bonds.

*Other costs* contain office expenses, e.g. office tenancy, telephone, various office supplies, auditor. The cost movement is calculated from price indices.

The components have never been adjusted, and no components have been included or excluded from the index.

### **8.3 Weighting of the index**

The weighting of the index is based on calculations from taxi operators' annual reports from 2001 or before and from discussions with the industry. The annual reports represent the cost structure faced by an average taxi operator in the Copenhagen region. The weights are shown in the table below. The weights are fixed and have not been adjusted since 2001.

**Table 1. Weighted Cost Index**

<b>Main components</b>	<b>Weight (pct.)</b>
Labour costs	67,3
Direct vehicle costs	27,2
Capital costs	3,3
Other costs	2,2
Total	100

The labour cost component is the heaviest component with a share of 67.3 pct. of the index. Direct vehicle costs contribute with 27.2 pct., while capital costs and other costs together weight the remaining 5.5 pct. of the index.

### **8.4 Fare structure**

The authority in the Copenhagen region uses the index movements to adjust fares. The fares can also be regulated on ad hoc basis if exogenous shocks hit the cost structure, e.g. extraordinary petrol increases, extraordinary fees. The cost movements are compared with current traffic statistics such as number of taxi trips, supply of taxis, turnover, etc., so the fare structure can be designed efficiently.

In the Copenhagen region different fares apply to different times at day, for baggage handling, for baggage outside the vehicle (cycles), and for more than four passengers. Fares at different times at the day for 1-4 passengers are shown below. All sorts of baggage handling are a lump sum fee.

**Table 2. Fares structure 1-4 passengers in the Copenhagen region**

Period	Starting fare (€)		Waiting fare (€ per min.)	Distance (€ per km.)
	Hail	Central		
Fare 1 (Monday – Friday between 07:00 and 16:00 hours)	2.55	4.30	0.84	1.54
Fare 2 (Friday 23:00 – Saturday 07:00 and Saturday 23:00 – Sunday 07:00)	5.37	6.71	0.84	2.12
Fare 3 (all other times)	2.55	4.30	0.84	1.68

The fare structure is designed to assure a proper supply of taxis to fulfil demand. As an example the starting and distance fare of fare 2 is significantly higher than the other fares in order to ensure enough supply in peaking hours Friday and Saturday night. As another example the starting fare of fare 2 has recently been raised. In Copenhagen it has been a problem, that taxi drivers were not willing to drive customers short distances Friday and Saturday night, when demand is high. The purpose of a higher starting fare is to make it more profitable to drive short distances, so all customers can be satisfactorily serviced.

## 9. Service requirements

The dispatch centres are required to provide a 24 hour booking service to the connected license holders. In rural areas without dispatch centres the license holders are required to establish a similar service. In addition the taxi drivers are required to service every area in the municipality, where the taxi license is issued.

## 10. Quality regulation

A vehicle used to provide taxi services must be approved and registered. In addition there are several other requirements as regard taximeters, control and equipment.

## 11. Special regulation on taxes and dues

The taxi sector is subject to special regulation as regard taxes and dues. As a general rule the registration fee on motor vehicles amounts to 180 % of the dutiable value. The registration fee for taxis is limited to 20 % of the dutiable value. Vehicles used as taxis can be sold to private use exempt for duty, when used for a period of 3 years and 210.000 km. or 2 years and 250.000 km. Moreover the taxi sector has a VAT exemption.

## FRANCE

### 1. Règlements et régulation du secteur des taxis en France

Les conditions d'exercice de cette profession sont fixées par la loi n°95-66 du 20 janvier 1995 réglementant la profession du taxi et le décret n° 95-935 du 17 août 1995 pris pour son application (Cf annexe 1).

L'appellation de « taxi » s'applique à tout véhicule automobile de neuf places assises au plus, y compris le chauffeur, muni d'équipements spéciaux, dont le propriétaire ou l'exploitant est titulaire d'une autorisation de stationnement sur la voie publique en attente de la clientèle, afin d'effectuer à la demande de celle-ci et à titre onéreux le transport particulier de personnes et de leurs bagages.

Un exploitant de taxi ne peut stationner sur la voie publique dans l'attente de sa clientèle que dans le périmètre de la zone de prise en charge (généralement la commune) définie dans son autorisation administrative de stationner. Toutefois, à vide ou chargé, il peut se rendre en tout lieu à la demande d'un client.

#### 1.1 *Un secteur qui connaît une réglementation spécifique...*

La régulation du secteur poursuit plusieurs objectifs : avoir une offre de taxis de qualité qui réponde à la demande, à un prix abordable et qui s'insère correctement dans le trafic routier

Elle concerne :

- l'accès à la profession : pour exercer cette activité, les candidats doivent réussir un examen professionnel qui permet de garantir la qualité de la prestation rendue ;
- l'exercice de l'activité : les titulaires de l'examen professionnel doivent ensuite obtenir une autorisation de stationnement. Celle-ci est délivrée par le maire de la commune ou, pour Paris, par le Préfet de police de Paris ;
- la fixation des tarifs : les tarifs des courses de taxi sont encadrés par dérogation au principe de libre fixation des prix posé par l'article L. 410-1 du code de commerce.

##### 1.1.1 *Réussir un examen professionnel*

Pour devenir chauffeur de taxi, les candidats doivent donc satisfaire aux épreuves d'un examen professionnel.

Cet examen se prépare généralement dans des écoles de taxis dont la grande majorité a été créée par des syndicats professionnels. Les stagiaires voient, dans une large proportion, leur formation financée en tout ou partie par des organismes publics (Conseil régional, conseil général, ANPE, ASSEDIC). La formation est d'une durée de six à neuf mois.

### *1.1.2 Obtenir une autorisation administrative de stationnement (une licence de taxi)*

La licence ou autorisation administrative de stationnement peut être obtenue.

- soit à titre onéreux, en rachetant une licence à un chauffeur qui vend la sienne (coût moyen 100 000 euros ; en zone parisienne 180 000 euros ; à Nice 300 000 euros). En effet, la loi autorise la cession à titre onéreux des autorisations de stationnement après plusieurs années d'exercice de la profession ;
- soit à titre gratuit, en en faisant la demande auprès des maires ou de la préfecture de Police pour Paris et sa proche banlieue (approximativement l'ancien département de la Seine).

La procédure d'autorisation de stationnement diffère selon que la demande est formulée en province ou en zone parisienne.

En province, la licence gratuite est accordée par le maire. Cette compétence découle de son pouvoir de police (articles L. 2212-2 et L. 2213-3 du Code Général des collectivités territoriales). Le maire accorde la licence après avis d'une commission consultative au sein de laquelle siègent les représentants locaux de la profession qui sont généralement opposés à toute nouvelle création de licence. Dans la pratique, les maires ne prennent pas d'initiative qui n'aient au préalable reçu l'aval des professionnels.

En zone parisienne, la licence est accordée par le Préfet de police de Paris. Le nombre de licences délivrées gratuitement par la préfecture de police augmente peu. Depuis quatre ans, le rythme est de l'ordre d'une centaine par an. Il y avait 20 155 taxis parisiens en 1931, 14 300 en 1967, 14 900 en 2003 ; il y en a 15 300 en 2007.

A Paris, comme en province, les nouvelles autorisations sont délivrées en fonction de listes d'attente rendues publiques et prévues à l'article 6 de la loi n° 95-66 du 20 janvier 1995. Ces listes d'attente sont chronologiques (article 12 du décret n° 95-935 du 17 août 1995). Il y a actuellement près de 6 000 demandeurs inscrits sur la liste d'attente des taxis parisiens (ce qui, au rythme auquel sont actuellement délivrées les licences, correspond pour le dernier inscrit à une attente de plusieurs dizaines d'années).

A Paris, en application d'une ordonnance du Préfet de police n° 96-11774 du 31 octobre 1996, seuls les locataires de taxis et les chauffeurs de taxis salariés peuvent être inscrits sur cette liste et obtenir une licence. Ainsi les personnes qui ont obtenu l'examen professionnel de chauffeur de taxi et qui n'ont pas exercé en tant que locataire ou salarié d'une entreprise de taxi ne peuvent pas accéder au marché dans la zone parisienne.

L'accès à la profession est donc contingenté. En effet, dans la pratique, les maires (et le préfet de police à Paris) n'accordent une nouvelle licence qu'après avis d'une commission où siègent des représentants de la profession, qui sont généralement opposés à toute augmentation du nombre de taxis. Il en résulte que le nombre annuel de créations de licences gratuites est très limité.

### *1.1.3 Respecter les tarifs maximums fixés par arrêté du ministre de l'économie et par arrêté préfectoral pris dans chaque département (Cf annexe 2).*

Les prix ont été réglementés par le décret n°87-238 du 6 avril 1987 pris sur la base de l'article L. 410-2 du code de commerce pour des raisons de sécurité et d'ordre public.

En effet, la nature du service empêche les consommateurs de s'informer aisément des tarifs ou négocier les prix sur la voie publique sans perturber le trafic routier en particulier dans les grandes agglomérations.

Plusieurs composantes interviennent dans le prix d'une course de taxi :

- La prise en charge : c'est la somme qui s'affiche au compteur quand le client monte dans le taxi en station,
- Des tarifs au kilomètre parcouru et des tarifs horaires. Le tarif horaire s'applique quand le taxi est à l'arrêt ou en vitesse réduite en alternance avec le tarif kilométrique
  - En province il y a 4 tarifs kilométriques : (A pour la course de jour aller retour, en journée du lundi au samedi inclus, B pour la course aller et retour, de nuit du lundi au samedi inclus ou, de jour et de nuit les dimanches et jours fériés ; C pour la course aller simple en journée du lundi au samedi inclus et D pour la course aller simple, de nuit du lundi au samedi inclus ou, de jour et de nuit les dimanches et jours fériés) et un tarif horaire.
  - A Paris il y a trois tarifs kilométriques et trois tarifs horaires A, B, C qui s'appliquent selon la zone géographique traversée (Paris intra muros, zone urbaine (proches communes situées au-delà du périphérique, zone suburbaine) selon le jour (semaine, dimanche et jours fériés) et l'heure (nuit, heures de pointe dans Paris 7H-0h et 17H-19h).
- Des *suppléments*, qui ne sont pas affichés au taximètre, sont prévus en cas de prise en charge d'une quatrième personne adulte, d'animaux, de bagages suivant leur poids et leur encombrement. Des majorations peuvent être prévues pour les prises en charge dans les gares, les ports et les aéroports. A Paris il n'y a que deux suppléments : un pour la 4<sup>ème</sup> personne et le supplément bagage, facturé uniquement à partir du deuxième bagage mis dans le coffre du véhicule.

Un montant minimal de facturation de 5,60 euros peut être appliqué par les chauffeurs de taxi.

Pour la bonne information du consommateur, le chauffeur est tenu d'afficher les tarifs dans le véhicule et le prix des suppléments (gare, bagages, animaux, 4<sup>ème</sup> personne) qui n'est pas inclus dans le prix qui s'affiche au compteur en fin de course.

Il doit, en outre, lui remettre une note détaillée du prix de la course quand le montant de cette course est égal ou supérieur à 15, 24 euros conformément à l'arrêté n° 83-50/A du 3 octobre 1983 relatif à la publicité des prix de tous les services.

## **1.2 ...mais auquel s'applique aussi la régulation concurrentielle de droit commun**

Par nature, la réglementation des prix et les conditions d'accès à la profession réduisent l'espace disponible pour l'exercice de la concurrence. La préservation de cet espace restreint de concurrence en a d'autant plus de prix. Aussi convient-il d'être très attentif aux éventuels comportements de collusion ou d'exclusion que les acteurs pourraient développer sur ce marché.

Le Conseil de la concurrence et la DGCCRF ont eu à connaître à plusieurs reprises de pratiques anti-concurrentielles relevant du droit des ententes, sur des marchés locaux (en général une petite ville) caractérisés par un nombre d'offres limité, regroupés au sein d'une coopérative, association, GIE ou d'un syndicat. Le regroupement s'explique la plupart du temps par des raisons tant économiques que technologiques : chaque coopérative dispose d'un central radio donnant accès au marché des réservations par téléphone, lequel constitue bien souvent l'essentiel de la clientèle (surtout en zone à faible densité de population).



Le schéma type de l'entente est souvent le même : un groupement de taxis, comprenant la grande majorité des détenteurs de licence sur la même zone géographique, tente de restreindre la concurrence à la fois entre ses membres et vis-à-vis des exploitants non adhérents, le plus souvent par le biais de clauses restrictives d'adhésion et d'exercice dans ses statuts. Parmi les affaires examinées par le Conseil de la Concurrence, nous pouvons distinguer cinq cas de figure, qui bien souvent se conjuguent dans un même dossier :

- le groupement empêche la constitution par ses membres d'une clientèle personnelle, en interdisant par exemple l'usage de moyens de communication privé ou le recours à toute publicité personnelle. Ainsi, dans l'affaire des taxis de Cannes (décision n° 96-D-53 du 17 septembre 1996, le règlement intérieur de la coopérative stipulait dans les clauses d'adhésion que : "*Tout chauffeur de taxi utilisant dans son véhicule, un téléphone ou un moyen de communication privé, se verra interdire, ainsi que ses successeurs, l'entrée de la coopérative*". Dans un contexte où la majorité des recettes résulte de commandes téléphoniques et où la société coopérative bénéficie des appels téléphoniques adressés depuis les bornes de tête de station, une telle clause décourage la constitution d'une clientèle propre par un adhérent en lui faisant prendre le risque d'une dévalorisation de son autorisation de stationnement (dès lors que son successeur ne pourra lui aussi bénéficier du service du standard téléphonique de la société coopérative). Une situation similaire se retrouve dans l'affaire des taxis de Montbéliard (décision n° 00-D-77 du 21 mars 2001), des taxis de Besançon (décision n° 01-D-78 du 21 mars 2001) et des taxis de Belfort (décision n° 00-D-79 du 21 mars 2001) ;
- le groupement tente d'imposer une discipline des prix en son sein : il diffuse, par exemple, des barèmes de prix et de forfaits à ses adhérents, qui prennent dans les faits la forme de prix minimaux imposés aux adhérents (voir par exemple : affaire des taxis de Toulon, décision n° 97-D-54 du 9 juillet 1997) ; il interdit également à ses membres de négocier individuellement toute demande de réduction de prix émanant d'une société ou d'une administration, demande qui ne peut être examinée qu'au sein de l'association elle-même (taxis de Belfort, décision précitée). Dans l'affaire des taxis d'Agen (décision n° 97-D-40 du 4 juin 1997), l'association est même allée jusqu'à préconiser l'application de tarifs forfaitaires supérieurs au tarif préfectoral
- le groupement menace d'exclure ou de ne pas accepter ceux qui adopteraient des comportements conduisant à accroître l'offre de taxi ou à baisser le prix des courses : dans l'affaire des taxis d'Agen, de Montbéliard ou de Belfort, l'association a interdit à ses membres la pratique du « doublage », consistant à recourir aux services d'un salarié pour exploiter son taxi. Dans l'affaire des taxis de Cannes, l'accès à la coopérative a été refusé à un exploitant de taxi ayant décidé de s'orienter vers une activité dite de « transport occasionnel », dont les prix sont fixés librement.
- le groupement menace de boycotter les clients institutionnels qui recouraient aux exploitants non membres (affaire des taxis de Toulon) ;
- le groupement impose des critères non objectifs et discriminatoires aux nouveaux adhérents : par exemple, il applique un droit d'entrée élevé aux candidats qui ne succèdent pas à un membre dudit groupement (affaire des taxis de Besançon ; affaire des taxis de Belfort). Ainsi, dans le cas des taxis de Belfort, le droit d'entrée dans l'association n'était pas fixé dans les statuts ou par l'assemblée générale dans des conditions objectives, son montant étant laissé à l'appréciation du conseil d'administration.

Une affaire récente mérite un traitement particulier, dans la mesure où elle porte spécifiquement sur une entente relative au prix de cession des licences : il s'agit de l'affaire des taxis de Marseille ; décision 06-D-30 du 18 octobre 2006). Les différents syndicats de taxis et les radio-taxis ont signé un protocole

d'accord créant une liste unique des licences à vendre et fixant le prix de la licence à 38 100 euros. L'entente qui poursuivait à l'évidence un objet anti-concurrentiel avait également un effet anticoncurrentiel: elle a fonctionné grâce aux pressions et menaces de représailles exercées sur les artisans taxis qui souhaitaient acheter leur licence en dehors du dispositif de liste unique gérée par les syndicats. En effet, plusieurs éléments de l'enquête ont démontré que les radio-taxis s'étaient engagés à écarter tout nouvel acquéreur de licence qui aurait acheté celle-ci en dehors de la liste unique. Cette entente a eu pour effet d'augmenter considérablement le prix moyen de vente des licences à Marseille, qui est passé de près de 19 000 euros en 2000 à 50 000 euros en 2005, soit une hausse de 163% en cinq ans. Le Conseil a noté que cette hausse artificielle du prix des licences pouvait notamment avoir eu un effet indirect sur le prix et l'offre des courses, en incitant les chauffeurs de taxis à pratiquer les prix maximaux et à concentrer leur activité sur les courses les plus rentables.

## **2. La situation actuelle appelle une évolution**

Si le cadre juridique a permis de réguler la profession, d'encadrer ses conditions d'accès, ses conditions d'exercice et ses tarifs, il n'a cependant pas permis à celle-ci de répondre pleinement à l'accroissement de la demande de déplacements qui a pu être constatée depuis un certain nombre d'années.

L'inadéquation de l'offre à la demande est plus ou moins sensible selon les zones géographiques. Ainsi, compte tenu de l'évolution à la hausse du PIB, de la démographie (accroissement et vieillissement de la population), de l'augmentation du trafic aérien et du trafic ferroviaire dans les grandes villes et en particulier à Paris il apparaît que le nombre de taxis est parfois insuffisant pour répondre à la demande des clients. Le déséquilibre offre/demande est également significatif dans les zones urbaines présentant en outre un attrait touristique (Paris, Côte d'Azur) mais il peut exister aussi dans des zones plus rurales marquées par un vieillissement accentué de la population, une demande accrue de transport individualisé, une offre qui ne s'est pas toujours adaptée à l'évolution de la demande.

Cette inadéquation de l'offre à la demande a elle-même engendré une augmentation des prix des licences qui peuvent atteindre près de 400 000 euros dans certaines villes du sud de la France ; à Paris où la pénurie de taxis est réelle, ce prix est estimé à 180 000 euros et il a augmenté de 50 % en moins de trois ans.

Ce décalage entre l'offre et la demande a conduit à engager une réflexion sur le sujet et à prendre certaines mesures.

- Une réforme tarifaire a été mise en œuvre en 2005, pour pallier l'insuffisance de taxis dans Paris, en particulier le matin et en fin de journée aux heures où la clientèle est la plus importante, alors que, par ailleurs, il y a, en général, trop de taxis dans les aéroports parisiens. Cette réforme, en augmentant dans Paris, les tarifs aux heures de pointe et en les baissant aux heures creuses, a permis d'attirer un nombre accru de chauffeurs de taxi dans Paris.
- Depuis trois ans, la Préfecture de police de Paris fait évoluer le nombre de licences en tenant compte d'une formule paramétrique intégrant plusieurs facteurs (population, trafic dans les aéroports, trafic ferroviaire grandes lignes, nuitées d'hôtel). Cette pratique a permis d'augmenter le nombre des professionnels, certes dans des proportions très mesurées, mais elle a ainsi permis d'augmenter même légèrement le nombre de licences permettant ainsi de lutter contre la stabilité, constatée antérieurement, du nombre de ces dernières.

La réflexion se poursuit par ailleurs. Des premières solutions avaient été mises en évidence dans le cadre d'un rapport de décembre 2004 consacré aux problèmes de l'emploi (*De la précarité à la mobilité : vers une sécurité sociale professionnelle – Pierre Cahuc et Francis Kramarz*).

Une « Commission pour la libération de la croissance française », présidée par Monsieur Jacques Attali et instituée par décret du 27 août 2007, est chargée de rechercher les moyens d'améliorer la compétitivité et la productivité de l'économie française, le fonctionnement du marché des biens et des services et d'analyser les obstacles auxquels se heurtent les projets d'investissement et de développement des entreprises, en particulier les petites et moyennes entreprises et les très petites entreprises.

Cette commission aura notamment à examiner l'impact sur la croissance de certaines réglementations, notamment celles concernant certaines professions réglementées, dont les taxis. Ainsi, elle aura à analyser si la réglementation concernant l'exercice de la profession de chauffeur de taxi ne limite pas à l'excès les possibilités actuelles de développement et de création d'emplois.

Comme l'a rappelé le Conseil de la concurrence dans son avis rendu le 18 mars 1987 (avis 87-A-01), les spécificités du secteur des taxis, qui implique dans une certaine mesure un « service d'intérêt collectif » justifie une certaine part de réglementation portant sur la quantité et la qualité de l'offre et sur les tarifs. En conséquence, une libéralisation totale et brutale du secteur ne semble pas souhaitable puisqu'elle ne conduirait pas à des conditions économiques et sociales optimales.

Toutefois, afin d'adapter l'offre à la juste satisfaction de la demande et de renforcer ainsi la concurrence (avis 04-A-04 du 29 janvier 2004), une méthode graduelle pourrait être proposée en s'inspirant des pistes de réflexion suivantes :

- augmenter, à droit constant, le nombre de licences de taxi en tenant compte des besoins locaux. L'augmentation du nombre de licences pourrait également se justifier pour couvrir les besoins de transport de certaines catégories d'usagers tels que les malades ou handicapés ou les voyageurs bénéficiant de formules de transports en taxis couplées à des prestations hôtelières. Dans son avis du 29 janvier 2004 (avis 04-A-04), le Conseil de la concurrence envisageait l'opportunité d'une augmentation du nombre de taxis dans les zones géographiques où de fortes tensions existent entre l'offre et la demande, tensions qui se reflètent dans le prix de cession des licences. Quel que soit l'indicateur retenu, la mise en œuvre de cette solution suppose une connaissance minimale des caractéristiques de la fonction de demande de taxis, laquelle dépend non seulement du prix unitaire (ici inchangé) mais aussi d'autres variables telles que le temps d'attente : il s'agit en effet, pour un prix donné, de déterminer le montant de licences à mettre sur le marché afin d'éliminer le « rationnement ». A ce titre, le Conseil de la concurrence a, à plusieurs reprises, appelé à faire aboutir le projet de mise en place d'indicateurs statistiques d'activité des taxis lancé en 2000 par la DGCCRF. Parallèlement à la reprise d'un tel programme statistique, le Conseil de la concurrence s'est montré favorable au lancement d'enquêtes régulières de satisfaction auprès des usagers qui permettraient d'obtenir rapidement des renseignements précis sur les attentes de la clientèle. Un travail préalable de recueil statistique serait donc nécessaire.
- développer, à défaut d'une modification de l'offre de taxis, le nombre des voitures de petite remise. Leurs prestations, peu connues en France, sont comparables à celles qu'offrent les taxis, exception faite qu'elles ne peuvent répondre qu'à des commandes passées par téléphone et ne peuvent pas stationner dans les aires réservées aux taxis ou être hélées dans la rue par un consommateur. Leurs tarifs sont libres mais l'accès à cette profession exige une autorisation accordée par le préfet ;
- tirer parti des évolutions récentes des technologies de l'information (Internet, téléphonie mobile) pour réorganiser le marché autour de deux types d'opérateurs distincts : les taxis hélés et les courses commandées. Les premiers se verraient confier la prise en charge des clients dans la rue ou en station mais sans réservation préalable et leurs tarifs resteraient réglementés. Quant aux seconds, ils auraient l'exclusivité des courses commandées par téléphone (fixe ou mobile) ou

Internet et leurs prix seraient fixés librement. En la matière, les expériences étrangères nous enseignent que la liberté des prix sur le segment des «petites remises» a permis de faire baisser les prix, du fait de la concurrence que se livrent les flottes de taxis et de la possibilité dont dispose le client potentiel de comparer les offres (notamment via Internet). Cette baisse des prix permettrait notamment l'émergence d'une clientèle qui jusqu'ici recourt peu à ce type de services ; en effet, en France, le profil des utilisateurs de taxi correspond plutôt à celui des hommes d'affaires et touristes, alors même que dans d'autres pays, l'offre de petites remises permet de cibler une population ayant des revenus modestes ou n'étant pas motorisée.



## GERMANY

In Germany taxi services belong to the local public passenger transport sector. The essential features of taxi services are set out in the Carriage of Passengers Act (PbefG), which differentiates between regular and occasional services. Regular services represent a regular transport connection at which passengers can be picked up and set down at predetermined stopping points. For example, the entire local public transportation network provided by the Deutsche Bahn falls under this category. Taxi services, on the other hand, are categorized as occasional services. In Germany taxi services are regarded as an element of general public services.

### 1. Statistics and economic development

In Germany there are currently 22,882 companies which operate exclusively taxi services, 7,055 companies which offer only car hire services and 5,791 which provide both taxi and car hire services. The number of licensed vehicles totals 79,344.

Generally the economic situation of the taxi and car hire sector has improved over recent years. However, according to a special survey carried out by the Federal Ministry of Transport, Building and Urban Affairs (*BMVBW*) the number of taxi businesses in Germany fell by 10.3 per cent between March 2000 and December 2004. Yet the number of licensed vehicles has remained constant. This can be explained by the simultaneous increase in the number of car hire companies despite the negative development in the taxi sector. Meanwhile the car hire sector has acquired almost a third of the market to the detriment of the taxi sector.

### 2. Market entry conditions

#### 2.1. Training of drivers

No special vocational training is required for the occupation of taxi driver, either on a self-employed basis or as a salaried employee. The only requirement in Germany is a licence to transport passengers (*Personenbeförderungsschein*). This has to be applied for at the relevant road traffic authority. The applicant must have two years driving experience, be at least 21 years old and ensure that he/she can fulfil the special responsibility of carrying passengers and be physically and mentally capable of performing this role.

A so-called medical and psychological examination (MPU) is conducted to establish this and local knowledge has to be proved in a written examination at the Technical Inspection Agency (*TÜV*). The introduction of GPS has not changed the relevancy of this examination in Germany. This is partly because the taxi business themselves have no interest in doing without this examination and still regard a certain extent of local knowledge as necessary even in GPS times, e.g. if a road is flooded because of a storm or is blocked due to an accident. Secondly, taxi drivers often have a migration background meaning that problems can possibly arise with entering the orthographically correct name of a road. Nonetheless many taxis are equipped with GPS.

The chauffeur of a hire car also requires a licence to transport passengers. In contrast to taxi drivers the chauffeur of a hired car is only obliged to take a local knowledge examination if the population of the area his licence covers exceeds 50,000.

## **2.2 *Licence to operate taxi or car hire services***

Any self-employed taxi driver or company planning to operate taxi or car hire services also requires a licence from the relevant regulatory agency to pursue his business activity. Both the licence to transport passengers as well as the licence to operate a taxi or car hire business can be issued for a maximum of five years.

Licences to operate a taxi are often subject to quota: however, there is no overall limit to the number of taxi licences issued. Some towns generally reject such limits on the number of taxi licences. Conditions for the first issue of a licence are, apart from the applicant's personal reliability, the financial standing of the company and the professional aptitude of the entrepreneur. The licence is only valid for the area covered by the local licensing authority.

In the areas in which the number of licences issued is subject to a quota, the taxi businesses are mostly guaranteed solid profits. Newcomers, however, have to wait years on the waiting list of the competent authority for a licence to be issued. According to the Carriage of Passengers Act it is possible to have a licence transferred (free of charge) from one to another business if the whole company is transferred at the same time. Although it is legal to transfer a licence from one entrepreneur to another free of charge, in practice a licence is acquired by means of payment (so-called licence trading). Ultimately, and against the intent of the legislator, licences are thus becoming marketable and objects of trading. The market price for such a licence varies widely and depends primarily on the condition and size of the vehicle fleet to be transferred. In recent years there has been a sharp fall in the prices for licences. Whereas in the 80s licences in conurbations were traded at a price of up to 30,000 DM (approx. 15,000 €), today prices of only 5,000-7,000 € are reached in the same areas.<sup>1</sup>

There is no trade in licences in areas where the issue of licences is unlimited. There is no limit to the number of licences issued for hire cars so that here again licence trading does not play a role.

## **3. *Regulatory oversight***

The specific form, for example, of the tariff obligations and administrative oversight lies with the *Länder* and the municipalities. There is no superior federal authority for this. The regulatory authorities responsible for the taxi sector are usually the local authorities. Neither taxi drivers nor consumers are directly represented in the regulatory authorities. The regulatory agency also lays down the area in which the obligation to carry passengers and tariff obligations apply.

### **3.1 *Obligation to carry passengers***

The obligation to carry passengers is an obligation to contract. Taxi drivers are obliged to enter into an agreement with anyone if the current conditions for transporting passengers are observed. The taxi driver may, however, refuse to transport a passenger if occupational safety is endangered. Reasons for this can be if the passenger is heavily intoxicated, is likely to soil the taxi, is armed or demonstrates aggressive behaviour.

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<sup>1</sup> The price here only covers the value of the licence to transferred, exclusive of the vehicle fleet.

### 3.2 *Tariff obligations*

Taxi drivers are obliged to provide services in accordance with predetermined rates (taxi rate system). This represents an administrative pricing in contrast with autonomous pricing. In total there are over 800 taxi rates in Germany. As a general rule each town in Germany has its own taxi rate system. The taxi rate is made up of a basic charge, the kilometre charge, which may vary after a specific number of kilometres travelled, and a price for waiting times.<sup>2</sup>

Apart from these regular rates there is also the possibility to charge so-called service rates for certain special services such as additional charges for night, Sunday and holiday services, and services in the surrounding area for more than four people, call-out charges, luggage rates, etc. Fixed rates are sometimes set for certain routes.<sup>3</sup>

The transportation fees are proposed by the taxi company registered in the area in which it is obliged to carry passengers. The licensing agency examines the transportation costs proposed by the company for their economic adequacy and political compatibility (whether they are consistent with public transport interests and in the public interest). The actual costs of services performed are only partly reflected in the approved transportation charges.

Each taxi driver is obliged to choose the shortest or most favourably priced route without being asked, if the customer does not specify the route. A so-called taximeter is installed in each taxi to check that the pre-determined tariffs are observed. This is an electronic device for recording fares on the basis of taxi tariffs. In Germany taximeters are checked once a year by the Office of Weights and Measures. Nowadays a so-called "seat contact system" is used to prevent the possible manipulation of the taximeter. Today many taxis are fitted with in-built seat contacts, which either automatically activate the taximeter or start to separately record the taxi fare once the contact is engaged.

The driver is neither obliged to carry passengers nor to comply with tariff obligations outside the area in which he is obliged to carry passengers. A taxi driver licensed in Munich is, for example, not obliged to drive a passenger to Hamburg. However, if he declares his willingness to do so, the tariff for this journey is negotiable on leaving the area covered by his licence. On the other hand, taxi drivers are not allowed to accept a passenger outside their licence area. This means that the taxi driver from Munich has to drive back from Hamburg with an empty taxi.

### 3.3 *Hired cars*

Hired cars are subject neither to the obligation to carry passengers nor tariff obligations. Legal measures are in place to counterbalance the competitive advantage gained from this, in comparison to taxi drivers, in that car hire companies can only execute orders which are received at the company's registered office. After completion of the hire contract the hired car has to return to the registered office unless the vehicle has not received a follow-up order from the office during the journey by radio or mobile phone. Taxis can wait in stand-by at officially authorized taxi ranks and pick up passengers en route. Moreover, signs and symbols reserved for taxis may not be used by hire cars. This also applies to lanes reserved for taxis in some towns.

<sup>2</sup> For example, the basic charge in Munich is 2.70€ and the kilometer charge for 0-5 km 1.60 €, from 5-10 kms 1.40 € and from 10 kms 1.25 €. The price for waiting time is 22.50 € per hour.

<sup>3</sup> For example, in Munich's taxi rate system the fare for the route from Munich Airport to the new trade exhibition halls (Neue Messe) in Munich, incl. any surcharges, is set at a fixed rate of 51 €.



#### **4. Quality regulations**

In order to obtain a licence as a taxi in Germany a vehicle has to fulfil certain technical requirements. As a result many automobile manufacturers in Germany sell their vehicles as a so-called taxi package. This includes, e.g. the obligatory emergency alarm system, preliminary setup for radio and taximeter, special aerials, rear child seat attachment points, preliminary fixture for roof sign, residual heating system (keeps the taxi warm while the engine is switched off until the cooling water becomes cold), reinforced components such as battery, brakes, door hinges, seats. Absolutely mandatory, however, are only a minimum of two axles and four wheels, two doors on the passenger side, the so-called Taxi sign, a taximeter, an alarm system, radio warning system, a city map, papers (inter alia a driver's permit with photo and name of the driver) and receipts.

Due to the relatively low technical basic requirements there is a broad range in Germany as regards service quality. Against general acceptance the passenger in Germany is free in his choice of taxi. He is by no means obliged to get into the first taxi at the taxi rank but has free choice.

Nationwide quality offensives have been started to promote friendliness, customer care and competent know-how in the taxi business. In Germany this has led to the training of various kinds of quality taxi models such as *Service Taxi* in Bremen and *Premium Taxi* in Frankfurt. The main features of these taxi services are the specially coached drivers, who are particularly polite and obliging and e.g. offer to accompany their passengers to the house door or can provide information on sights of interest in their licence area. The vehicles used as *Quality Taxis* are in a particularly good condition, both the interior and exterior, and have special technical fittings such as air conditioning. Meanwhile there are taxis in Berlin offering an internet connection, so-called *Hitec taxis*.

The regular working time of a driver, including "stand-by", is 8 hours. This can possibly be extended by collective agreement. However, a driver may not work longer than 12 hours in total, including breaks and stand-by. The average length of a shift should normally be only 8 hours. A tachograph is not used by taxi and hired car drivers.

#### **5. Taxi cooperatives**

In Germany taxi drivers are not obliged to join a taxi cooperative (colloquially often referred to as taxi central office). However, most self-employed taxi drivers and independent taxi companies are members of a cooperative. Of the just under 80,000 taxis registered in Germany, about 80 per cent are members of one of the 500 taxi cooperatives.

The cooperatives' main activity is the distribution of taxi orders among their members. Some larger cooperatives also offer garage services, provide advertising material and offer further additional services.

The cost of membership in a cooperative is about 2,000 – 3,000 € per vehicle. In the case of several registered vehicles costs may vary. In addition to this a monthly user fee is to be paid. This fee differs depending on the individual cooperatives' provisions, e.g. regarding the number of vehicles or taxi orders procured.

#### **6. Reforms and selected cases from case-law**

##### **6.1 Reforms**

Plans to de-regulate the taxi sector existed in 1992 and 2004. However, these met with strong opposition from the taxi sector which particularly fears competition from the strong car hire market. As regards de-regulation it is worth mentioning the field test carried out by the *Land* of Baden-Württemberg

which abandoned the legal provision that its 4,400 taxis should be coloured “light ivory” because, according to surveys, customers increasingly identified taxis by their sign, not by the colour of the car.

## 6.2 *Selected cases from case-law*

The taxi sector cases which are relevant in terms of competition law mainly concern the relationship between taxi cooperatives and taxi companies. In many cases taxi cooperatives dominate the market in their field of activity so that the relevant cases were almost exclusively about the abuse of a dominant position which the taxi companies followed up in private lawsuits. This is the reason why no Bundeskartellamt decision-making practice exists in this respect. There are, however, a large number of decisions which have been taken by the Federal Court of Justice and the relevant Higher Regional Courts. In all proceedings before the Federal Court of Justice and the Higher Regional Courts the Bundeskartellamt can act as *amicus curiae*.

Most cases are about the content of the cooperatives’ statutes. For example, several decisions dealt with the question of whether the prohibition of membership in more than one cooperative (dual membership) represents a restriction of competition, and whether this restriction could possibly be justified because it was “inherent in cooperatives”. The Federal Court of Justice acknowledges this inherence if the provision is required to safeguard the objective or effectiveness of a cooperative. The prohibition of dual membership was not considered to be inherent in cooperatives as membership in another cooperative would not necessarily violate the cooperative duty of loyalty and the obligation to safeguard the common interests. According to the Federal Court of Justice the mere possibility of future behaviour in breach of this duty neither harmed a cooperative’s interests nor affected its effectiveness.

In another case a taxi company wanted to use the call boxes of a taxi cooperative without becoming a member of the cooperative. The cooperative claimed, however, that all taxi operators wishing to use the cooperative’s facilities generally had to become members. The Federal Court of Justice did not consider this to be abusive conduct. According to the court, the fact that the dominant cooperative made the use of call boxes subject to membership did not constitute unfair hindrance under Section 20 (1) of the ARC as the operator concerned was granted non-discriminatory access to taxi orders. His objective to operate from outside the cooperative, but to be integrated into the procurement system via the call boxes would only be worth protecting if membership were linked to unreasonable conditions. However, this was not the case.

There are a number of decisions which have dealt with the level of fees for admission to a taxi cooperative. In a decision by the Düsseldorf Higher Regional Court, the amount of 7,500 DM was not seen to be in violation of Section 20 (1) ARC as this fee in fact covered the cost-intensive provision of services. An admission fee amounting to 12,000 DM, however, was held to be abusive because a taxi company might want to leave the cooperative after a very short period of time. Admission fees are currently at a level of between 2,000 and 3,000 €.

The bases for calculating the monthly user fees have often been the subject of court decisions as well. Under these decisions the calculation bases to be used must allow conclusions on the intensity of use. The number of drivers in a taxi company was considered to be an irrelevant calculation basis. An admissible basis for calculating user fees are the actual cases of use, and also the number of vehicles.

In view of increasing competition from the car hire sector some taxi cooperatives have required their members to submit a written declaration assuring that, apart from their taxi company, they neither operate their own car hire company nor participate in one. This was because the taxi cooperatives feared that those companies which operated both taxi and car hire services might use the procurement services provided by the cooperative’s central office for the benefit of their car hire operations. The courts, however, considered the declaration of commitment requested by the cooperative to be an inadmissible non-compete obligation.



## HUNGARY

A comprehensive overview of the taxi sector in Hungary cannot be given, because only the prerequisites of providing taxi-service are regulated at national level (e.g. requirements for taxicab and taximeter etc.). Generally these requirements do not compose significant entry barriers to undertakings, however on local level there are variable types of regulations as tariffs setting, taxi rank designation. The overall outcome appears to be generally competitive, because the regulations do not or in very few cases limit the number of cabs/taxi stand licence or set minimum or fixed fares.

For the taking up and pursuit of taxi business the following licenses are necessary:

- *Taxi confirmation card* – which relates to the automobile, and justify the conformity with the technical conditions. The National Transport Authority issues the confirmation card upon presentation of the taxi licence.
- *Taxi licence* – is issued by the National Transport Authority for the name of the undertaking, for specified operational area and registration plate.
- *Taxi driving licence* – is issued by the National Transport Authority on request submitted by an undertaking to a natural person. The taxi driving licence shall authorize the driving of taxi vehicle.
- *Public area permit* – is issued by the municipality or a company whom it appoints. The taxis can use the specified public areas as taxi ranks by this permit, but there are some municipalities, which have not regulated the use of taxi ranks.

According to the Act on Price Setting<sup>1</sup> the municipalities are authorized to set tariffs for passenger taxi services in their respective territory. These tariffs can be maximum tariffs or fixed tariffs approved by the municipality. The municipal authority is required to consult with the local Chamber of Trade and Commerce, the consumer protection authority and the directly concerned interest groups before the adoption of such regulation. Where the municipalities set maximum tariffs the taxis are obliged to state the prices in a conspicuous place in the car.

It should be mentioned that in 1994 the Hungarian Constitutional Court abolished a discriminatory reference in the Act on Road Transport<sup>2</sup>, which entitled the municipalities to limit the number of taxis in their respective territory. After this the situation has changed. In some cities now the number of taxi ranks is limited which means that without a public permit of the taxi rank an undertaking cannot start his operation. With other words the limiting of the number of taxi ranks forms an indirect barrier to entry, which significantly impedes the competition in the taxi market. Generally the municipalities do not make any analysis or market studies before deciding on the number of the limitation. Considering the fact that such limitation takes place in a local regulation the Hungarian Competition Authority (Gazdasági Versenyhivatal – GVH) can use only the tool of competition advocacy.

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<sup>1</sup> Act LXXXVII of 1990 on Price Setting

<sup>2</sup> Act I of 1988 on Road Transport

In a recent case the municipality of Győr concluded a contract with the Trade Guilds of Győr for the operation of taxi ranks in the city, which means also a legal monopoly of issuing taxi rank permits. In this sense the operation of taxi ranks constitute an entrepreneurial activity and market behaviour. The Trade Guilds has limited the number of the taxi rank permits and has discriminated the non-member of the Trade Guilds with higher charges. The GVH has obliged the undertaking (Trade Guilds) to setting the legal rules of issuing the taxi rank permits without imposition of fine.

The city of Budapest adopted a regulation of setting the maximum tariffs in 1998. The GVH was concerned that such kind of control might encourage firms to reach agreements restricting competition. The GVH argued (within the frame of its competition advocacy function) that the maximum rate should apply only at the taxi rank and hailing segments and there should be no regulation for those under other kinds of contracts such as to serve hotels, as well as at the telephone-booking segment (since the caught in the street services generate the most problems).

A recent change in the regulatory regime of Budapest is the amendment of the taxi rank resolution<sup>3</sup> to support Budapest Airport's changes to the system of taxi services at Budapest Ferihegy Airport. Before this amendment only one company established by the municipality had the possibility to operate taxi ranks at the Airport and generally in Budapest. In May 2006, Budapest Airport Zrt. (operator of Budapest International Airport) issued a two-round public tender invitation for the taxi service within the range of the Budapest Ferihegy International Airport. After a transparent tender competition, the tender committee of Budapest Airport Zrt. selected the winning company, namely the Zóna-Service Consortium (group of taxi enterprises), which has provided by far the lowest tariffs and fares and by far the highest service level at the same time. Since 15 August 2006, a high quality and fair passenger carrier service has started running at the Ferihegy Airport, which can be characterized by the following:

- Maximized tariffs and fares defined by zones (which are in line with the tariffs set by the municipality order);
- Efficient and simple taxi ordering procedure;
- Own helpdesk and hostess service at all three airport terminals;
- Non-smoking staff speaking several foreign languages with uniform appearance;
- Air-conditioned fleet that is composed of cars having high technical qualities and large storage areas;
- Special size vehicles to assure the access of the disabled;
- Constant checking of the taxi service;
- Special services for contractual partners.

The GVH has limited experience in relation to taxi sector and competition therein, because there have been only a few cases in relation to taxi sector so far. Some of them concerned price restrictive agreements between taxi undertakings operating in different cities (Budapest, Nyíregyháza), in which cases very limited fines were imposed. The above-mentioned new situation at Budapest Ferihegy Airport also generated a complaint by the competitors against the winning company and the airport operator. The GVH

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<sup>3</sup> Order 59 of 1999 by the General Assembly of the City on Methods of Establishment, Use and Operation of Taxi Ranks in Budapest's Public Areas

has not found any well-established reason for establishing the restriction of competition, but the complainants' appeal against such a decision lies to a court.

Under Article 85 of the Competition Act the GVH is entitled to attack decisions of municipalities should they restrict the freedom of competition unless its observations are taken into account by the municipality itself. In the sole case when the GVH turned to court a taxi driver applied for a licence to a municipality. His request was refused for two reasons:

- first, according to the municipality decision, taxi licences could have been given to taxi drivers who - unlike the driver in question - were either local residents or lived within a 10- mile radius of the town;
- secondly, the number of taxi licences were maximised by the municipality. The taxi driver complained to the GVH, that subsequently requested the municipality to revoke the decision. Being rejected the GVH went to the administrative court and finally won the case.

Another example for GVH activity was in this field of using the advocacy possibility towards administrative decisions having adverse effect on competition. This summer the Municipality of Budapest City has consulted with the GVH under pressure of the taxi market operators in the city to increase the maximum tariffs of the municipality's order. The GVH had a well-established argumentation to oppose this market pressure, because the prices were so highly set years ago, that it seems to still have enough reserve to ensuring profitable operation.

Recently the taxi sector regulation is not the priority area of political activity.



## IRELAND

### Terminology

This paper describes the regulation of taxis in Ireland and will thus use the terminology that prevails in Ireland.

**Small public service vehicles** are vehicles under a certain size available for hire by the public.

**Taxi cabs (“taxis”)** are small public service vehicles that can ply for trade on-street or at dedicated taxi ranks as well as being hired over the telephone.

**Hackney cabs (“hackneys”)** are small public service vehicles that can be hired over the telephone but are not allowed to ply for trade on-street.

Taxis are the only small public service vehicle that can sit at taxi ranks and use bus lanes, hackneys are not allowed to use these facilities.

### 1. Introduction

This submission outlines the competitive effects and the policy response to the sudden removal of quantitative entry restrictions to the Irish taxi market in 2000. Due to a legal judgment by the Irish High Court, the Irish taxi market experienced fundamental regulatory changes that took even the most ardent advocates for reform and indeed the Irish Government by surprise.

The general principles governing the regulation of taxi markets are first outlined in order to assess how Ireland’s experience fits within the theoretical framework. The paper then traces the development of the Irish taxi market from one where weak and fragmented regulation allowed producer interests to dominate to one where there is no quantitative limit on entry but a much strengthened regulatory framework.

The sudden liberalisation of the taxi industry required a substantial policy response to alleviate the potential negative effects of open entry. Legislation was enacted to create a national regulator and subsequent reforms have included the introduction of a nationwide taxi fare structure, new standards governing vehicle quality and customer service standards.

The liberalisation of entry was a much welcomed development and has led to a huge increase in the number of licensed vehicles on the roads to the benefit of consumers. The Irish experience has shown that liberalisation must be accompanied by strong regulation of other aspects of the market to ensure that consumers benefit fully from competition.



## **2. Rationale for Regulating Taxis**

### **2.1 Overview**

The rationale for regulating taxi markets rests on the existence of vulnerability among certain consumers and asymmetry of information between consumers and taxi drivers. Regulation is based on three dimensions: the regulation of entry; the regulation of fares; and the regulation of quality.

### **2.2 Regulation of Entry**

Those who advocate (quantitative) restrictions on entry to a taxi market generally claim that free entry to a taxi market results in “excess supply”. That is, a level of entry above that which would be socially optimal or the “right” level.

In the context of taxis, free entry may lead to lower occupancy rates of taxis and hence higher costs for taxi drivers. Spare capacity in the taxi market is, however, valuable for consumers in that it reduces customer waiting times.<sup>1</sup> Taxis being idle is not the same as an “excess supply” of taxis. The existence of part-time taxis demonstrates that taxis do not need to be operating at optimal levels at all times of the day to make an acceptable return. The existence of part-time taxis benefits consumers by making more capacity available at peak times.

Even if there were a danger of excess entry, it would be doubtful whether a regulator could determine what is the “right” level of entry. Furthermore, the regulation of entry can generate its own inefficiencies. Only in circumstances where the negative welfare effect of free entry is likely to be particularly severe, might the restriction of entry be justified. Such circumstances may arise where there is a particularly large fixed cost of entry. The taxi market is not such a market; indeed the fixed costs of entry to this market are, relatively speaking, very low, even for wheelchair accessible vehicles.

### **2.3 Regulation of Fares**

For the taxi market to operate smoothly it is important that consumers have reliable and relevant information regarding the likely cost of the journey. The taxi market is unusual in that there are at least three compelling reasons to regulate fares.

- First, there are significant search costs associated with “shopping around” in the taxi market. For instance, street hire search costs include the uncertainty of waiting for another taxi, the waiting time, and the possibility that the next is more expensive;
- Second, many vulnerable customers (e.g. tourists and those unfamiliar with the journey) will generally be susceptible to overcharging; and,
- Finally, for practical reasons price competition is unlikely to work at ranks where the custom is to take the next taxi in the queue.

While the existence of expert users such as businesses and other regular users suggest some scope for price competition, the vulnerability of inexperienced consumers to overcharging provides a clear rationale for price regulation.

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<sup>1</sup> Fingleton, Evans, and Hogan (1997), *The Dublin Taxi Market: Re-Regulate or Stay Queuing?* Dublin: TCD Department of Economics.

The regulation of fares can avoid these problems, but only if properly designed. Otherwise, it will be costly to run and costly to consumers because it will deny them the flexibility of a market response. It is therefore appropriate to set a maximum fare to protect consumers while also allowing some flexibility for negotiation among more experienced consumers.

In order to avoid the costs of a regulated fare being set too high or too low, fare regulation should incorporate the following features:

- Only maximum fares should be regulated. This measure would ensure that, if regulated fares are set too high, price rivalry for the more competitive ends of the market (e.g., business accounts, callout business) would bid away excess profits.
- Fares should be regulated solely to ensure that supply meets demand. Ideally, an efficient system of fare regulation should attempt to mimic what would happen in a normally functioning market.
- The fare review process should be both regular and systematic. Fares will need to be re-balanced on a regular basis, increasing them at times of the day or week when customers queue and reducing them when there is overcrowding of taxis at ranks. Accordingly, fare reviews should not be seen simply as an opportunity for lobbying the regulator. Changes in fares, up as well as down, should be based on objective evidence of excess supply or excess demand – and not because of pressure exerted by special interest groups.
- A reliable means of information gathering is needed to assist the fare review process. Observation of ranks and consumer satisfaction surveys, as well as detailed records of taxi usage for example.
- Hackneys should not have their fares regulated. In contrast to the taxi market, hackneys are hired by telephone and mostly by regular users so that search costs are lower and exploitation less likely. For these reasons, price competition is likely to be more effective in the hackney market than in the taxi market. Moreover, the hackneys' freedom to charge whatever they wanted would be restrained by the controls on taxi fares, i.e. if hackneys attempted to charge excessively, they would find themselves losing business to taxis.

#### **2.4 Regulation of Quality**

Free entry, intense competition and the incentive to cut costs may reduce vehicle quality. The asymmetry of information between consumers and taxi drivers about the safety of the vehicle and the ability of the driver, exacerbate this tendency. However policy measures to enforce minimum quality standards can mitigate this problem.

Quality standards refer mainly to the vehicle used – age, size, condition, visibility – but can also refer to driver knowledge. Typically a licensing system is used to ensure the vehicle to be used is roadworthy and the driver has a full driving licence and knowledge of the routes. Examples of ongoing enforcement measures include regular maintenance checks, spot checks and meaningful fines for offenders.

The quality standard chosen will always affect the number of operators who enter a market. That is, qualitative standards have quantitative effects. It is important therefore to have objective quality standards, set by an independent body, and based on research on consumers' willingness to pay for incremental changes to minimum standards. Standards that are set too high deter entry, favour incumbent taxis and price some consumers out of the market.

## **2.5 Competition in the Taxi Market**

At the most fundamental level, competition works across the whole market in terms of the fluidity of entry and exit. The availability of taxis depends on the number of taxis in the market and the number of taxis depends on the expected income and entry costs. The higher the costs of entry and exit to the market the less responsive the supply of taxis will be to changes in demand.

In theory taxis compete on price, as a consumer is entitled to haggle with the taxi driver. The same goes for quality: a consumer is not obliged to take the first taxi in a rank – one can by-pass the family saloon and take the Mercedes!

Custom and practice, in Ireland at least, makes this competition largely theoretical. It is most likely to be seen in regard to private hires from dispatch companies. Consumers base their choice of dispatch company, when calling for a taxi, on their experience of timeliness and quality of vehicles sent. Large repeat customers often have accounts with dispatch companies and avail of a degree of price competition. The possibility of price competition in private hires in theory should facilitate a limited degree of price competition in public hires.

## **3. Historical Background**

### **3.1 Overview**

Quantitative restrictions on the number of taxi licences in Ireland were in place from 1978 to 2000. This section explains the context of the decision to introduce these restrictions and the High Court decision that removed them and outlines the regulatory system and level of competition that existed during that period.

### **3.2 Regulation of Entry**

Ireland operates a dual licensing system where taxi vehicles and taxi drivers are licensed separately.<sup>2</sup>

- Until 2006, the elected local public authorities granted licences to operate within their local taximeter area. Some local authorities tested applicants for a basic knowledge of local routes. These licences are transferable.
- Taxi drivers' licences were processed by the Irish police who also issued taxi badges and licence plate numbers. The police had to vet all applicants for their suitability to be taxi operators.

#### **3.2.1 Introduction of quantitative restrictions in 1978**

Quantitative restrictions were introduced in 1978 after a sustained campaign by the taxi industry that included street blockades and work stoppages by the taxi industry.<sup>3</sup>

The restrictions were contained in a ministerial order<sup>4</sup> which came into effect in September 1978. The restrictions prevented any new applications for a taxi licence “*unless the application is made by a person who at any time in the period of twelve months preceding the date of application held such a licence in*

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<sup>2</sup> The same is true of hackneys.

<sup>3</sup> “Traffic chaos in Dublin as taxi men stage protest”, The Irish Times, 28 August 1978.

<sup>4</sup> Road Traffic (Public Service Vehicles) Amendment No 3 Regulation 1977, S.I. 268

*respect of a [taxi] vehicle*". The restrictions were re-enforced by a previous regulation that stipulated that taxi licence holders had to provide their services for at least 48 hours per week.<sup>5</sup>

The introduction of these restrictions was supported by a 1976 report on the Irish taxi market commissioned by the National Prices Commission.<sup>6</sup> The report found acute public dissatisfaction with the quality of the taxi service but nevertheless accepted the arguments put forward by taxi drivers and recommended that the number of licences be restricted largely in the interest of maintaining a "reasonable wage" for drivers.

To facilitate the entry restrictions imposed in 1978, responsibility for deciding the *number* of taxis to be licensed in each taximeter area was vested in local authorities.

In the late 1990s Ireland began enjoying unprecedented levels of economic growth, a period that became known as the "Celtic Tiger" era. As a result, the value of taxi licences in the secondary market soared. By 2000 Dublin taxi licences could fetch in excess of IR£100,000 (the equivalent of €150,000 when adjusted for inflation).

The high secondary value of taxi licences made them a lucrative investment option. Kenny and McNutt (1998) found in Dublin "*a vibrant market for individuals who rent plates and then act as an intermediary between the owner and the driver.*" The drivers were likened by Kenny and McNutt to "urban sharecroppers". They estimated that one individual controlled 45 plates and that there were 1,500 drivers without licences in Dublin, known as "cosies", who entered the market by renting licences from licence holders.

Despite the existence of cosies and hackneys (there were no quantitative restrictions on hackney licences), it became more and more difficult for consumers to get a taxi in Ireland, particularly in Dublin - the largest taximeter area. At the same time, issuing more licences would reduce the secondary value of all licences and the taxi drivers consistently campaigned against the issuing of additional licences.

*"New licences are completely unwarranted. Christmas is the only time of year we're busy. What do people live on the rest of the year?"*<sup>7</sup>

*"People are prepared to queue for banks or supermarkets but not taxis. You could wait for three quarters of an hour at a checkout but a delay for a taxi causes complaints."*<sup>8</sup>

### 3.2.2 High Court Decision in 1999

By 1999 public dissatisfaction with the lack of availability of taxis had reached an all-time high. Getting a taxi on a Friday night in Dublin was next to impossible, and those who did brave the ranks waited hours.

To balance the need to issue more taxi licences with the potential reduction in the assets of existing licence holders, the then Minister for the Environment and Local Government proposed to issue an additional licence in Dublin to all holders of an existing taxi licence. In addition, 500 extra licences would

<sup>5</sup> Statutory Instrument No 200 1970.

<sup>6</sup> Hyland Associates (1976), "*Study of Taxi and Hackney Services*".

<sup>7</sup> Martin Morris, The Irish Taxi Federation, *The Irish Times*, 23 January 1992.

<sup>8</sup> Ibid.

be issued to those without a licence. Preference in the issue of the extra 500 licences would be given to current taxi drivers who rented their taxi plate.

The Minister's proposals were opposed by four hackney operators who were granted a judicial review by the High Court in February 2000.<sup>9</sup>

The central legal issue that the High Court had to decide was whether the Minister was empowered under Section 82 of the Road Traffic Act 1961 to restrict the number of taxi licences:

- to favour the incumbents already holding taxi licences; and,
- to a limited number of other applicants.

The Court held that the Minister, in restricting the numbers in 1978 for reasons unrelated to qualitative standards of the vehicles had exceeded the powers conferred upon him by Section 82 of the 1961 Act. The Court felt the Minister's actions "... *affects the rights of citizens to work in an industry for which they may be qualified and, further, which affects public access to taxis and restricts the development of the taxi industry*". Accordingly, the Minister's decision was made void.

Following the ruling by the High Court, the Minister promulgated the Road Traffic (Public Service Vehicles) (Amendment) (No. 3) Regulations, 2000 which provided that any suitably qualified individual may provide taxi services. Almost overnight, the industry went from a state of closed entry to open entry.

The years since this liberalisation have seen a quadrupling of taxi licences and the creation of a national taxi regulator to replace the old system of local authority control.

### **3.3 Regulation of Fares**

While the restrictions on entry were in place, maximum taxi fares for trips within taximeter areas were decided upon by local authorities.

The standard components of taxi fares included:

- a minimum fare;
- a distance related charge; and
- a time related charge.

In addition to the above, taxi fares incorporated a number of optional 'extras'.

Fares for trips outside the taximeter area were negotiated between the taxi driver and the passenger prior to the commencement of the journey.

There were wide variations among taximeter areas in the application of both the fixed and variable components of taxi fares. The very high minimum fare charged in a number of taximeter areas was identified as a particular problem, as it deterred consumers from using taxis for shorter journeys.<sup>10</sup>

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<sup>9</sup> Murphy J (2000) *Humphrey and Others v The Minister for the Environment, Local Government, Ireland, the Attorney General and Others*.

<sup>10</sup> *Review of Taxi Fares and Taxi Fare Structures*, Goodbody Economic Consultants, 2006.

In the absence of a standardised fare review system, fare setting was often vulnerable to influence by taxi interests campaigning for fare increases.

### **3.4 Regulation of Quality**

There were no formal quality standards in place for vehicles during this period. Drivers were in some areas assessed on their basic knowledge of local routes. The police vetted all applicants for their suitability to be taxi operators.

A variety of taxi plates, taxi fare meters and signage were in use.

The calibration of taxi fare meters was carried out by the weights and measures function of the Department of Enterprise Trade and Employment. Service quality standards with regard to complaints procedures and the regulation of dispatch centres were non-existent.

### **3.5 Competition in the Taxi Market**

While the legislative changes of 1978 had the greatest effect in Dublin (the largest taxi market), taxi associations outside the capital were successful in using the legislation to restrict entry in their areas also. For example, in 1979 the Cork Taxi Association injuncted the local authority from issuing 45 new licences after legal counsel claimed that such a grant would be in breach of the regulations then in place.<sup>11</sup>

In Dublin, taxi numbers remained unchanged at 1,800 between 1978 and 1992. In 1991, the Minister for the Environment and Local Government temporarily took over control of taxi numbers in the Dublin area and between 1991 and 1995 some 100 additional taxi licences and 50 wheelchair accessible taxi licences were issued. Responsibility for determining taxi numbers was devolved back to the local authority - Dublin Corporation - in 1995. In 1997 and 1998 a total of 400 wheelchair accessible taxi licences were issued. A further 350 wheelchair accessible taxi licences were issued in 1999, giving a total of 2,724 taxi licences in Dublin by 2000.

Kenny and McNutt (1998) estimated that there were 1,500 “cosies” also using these licences in Dublin. Even the efficient spreading of taxi licences across a number of drivers could not alleviate the serious shortage of taxis in Ireland, especially Dublin.

The mismatch of supply and demand in the taxi market, enforced by the quantitative restrictions on taxis, eliminated any possibility of price competition in the market.

There was no quantitative limit on hackney licences and the numbers of these licences in Ireland rose substantially in the 1990s.

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<sup>11</sup> “Issuing of taxi licences halted”, *The Irish Times*, 18 May 1979.

**Table 1. Change in Taxi and Hackney Licences in Ireland 1993 - 1999**

<b>Year</b>	<b>Taxi</b>	<b>Hackney</b>	<b>Total</b>
1993	2,726	3,418	6,144
1994	2,929	3,996	6,925
1995	3,002	5,084	8,086
1996	3,145	6,074	9,219
1997	3,212	7,128	10,340
1998	3,639	7,610	11,249
1999	4,063	9,013	13,076

#### **4. New Regulatory Regime**

##### **4.1 Overview**

The sudden liberalisation of entry created a temporary regulatory vacuum and led to calls for a national regulator to impose some structure on the market. This was championed by the industry as they interpreted the role of a Taxi Regulator to be to through the back door e.g. requiring all taxi drivers to be “full-time”.<sup>12</sup> It included orchestrated public protests demanding a national regulator.

The necessary legislation was introduced in the Taxi Regulation Act 2003. The Commission for Taxi Regulation was formally established as an independent statutory body in September 2004. The Regulator is empowered to make regulations in relation to the licensing, ownership, control and operation of all taxis, hackneys and limousines.<sup>13</sup> As part of its role the Regulator is responsible for the determination of fares, entry requirements and the setting of quality standards throughout the industry.

An Advisory Council to the Regulator was established under the 2003 Act. The Council consists of a chairperson and 17 ordinary members, appointed for a three year period, representing:

- the taxi, hackney and limousine industry;
- local authorities;
- An Garda Síochána;

<sup>12</sup> Lobbying by industry interests at the time created the impression that restoration of entry restrictions was in the interest of public safety after a number of incidents involving taxi drivers were reported in the media. (“Taxi service is out of control, say unions”, *The Irish Times*, 25 January 2003.) “Taxi union leaders claim hundreds of people with serious criminal records have been issued with taxi plates in the last two years since the industry was deregulated, although this has not been substantiated by gardai.” (*The Irish Times*, 9 January 2004.) In response, the then Minister for Transport proposed to ban individuals with criminal records from driving taxis. The National Taxi Drivers' Union (NTDU), welcomed the move but warned that it would challenge it in the courts if it was applied retrospectively! “[T]he vice-chairman of the NTDU... said that while the union had campaigned against unsuitable drivers getting licences, it would be unfair to exclude those who had ‘historical’ convictions for some criminal offences, including assault.” (*The Irish Times*, 27 July 2004.)

<sup>13</sup> These are known collectively as Small Public Service Vehicles or SPSVs.

- Consumer, tourism and business interests; and,
- Other relevant sectors, as required under the Act.

However, when the Regulator made his first formal decision - to introduce a new national fare structure - the industry orchestrated resistance to these proposals in the form of public protests, street cavalcades and strikes. At one point threats were made to disrupt high profile events such as Ireland's staging of the Ryder Cup golf tournament.

#### 4.2 *Regulation of Entry*

Entry to the Irish taxi market is now possible for any suitably qualified individual subject to the payment of €6,300 for a new taxi licence (a hackney licence is €250 and a wheelchair accessible taxi licence is €125).

To qualify for a taxi licence, applicants must hold a current driver's licence, taxi insurance, a tax clearance certificate and satisfy the police of their fitness to hold such a licence. There are no longer any quantitative limits on taxi licences.

**Table 2. Change in Taxi and Hackney Licences in Ireland 2000 - 2007**

<b>Year</b>	<b>Taxi</b>	<b>Hackney</b>	<b>Total</b>
2000	4,218	9,419	13,637
2001	8,025	8,381	16,406
2002	10,757	7,259	18,016
2003	12,781	6,710	19,491
2004	14,171	6,057	20,228
2005	not available	not available	not available
2006	16,429	4,135	20,564
2007	16,826	4,621	21,447

The table above illustrates that since the relaxation of entry restrictions the number of taxis has increased sharply while demand for hackney licences has declined since deregulation.

Taxi licences are issued for five years; however, the length of this licence period is currently under review and may be reduced to three years with the requirement that the holder must undergo a refresher course as part of the licence renewal process.

At present taxi licences are still transferable; however, this is mainly due to the high value attached to them prior to the liberalisation of the market. Though these licences do not now command any significant monetary value there is anecdotal evidence of leasing or renting out of vehicles that are licensed and insured as a package. The Taxi Regulator is currently carrying out a detailed examination of this practice to assess whether there has been any adverse effect on the quality of service provision.<sup>14</sup>

<sup>14</sup> Hackney and limousine licences are not transferable and as such they are not the subject of speculative activity. It is intended that this should remain so.



A nationwide taxi numbering system has replaced the old local authority system and licences are granted, renewed or transferred at 43 centres throughout the country.

### **4.3 Regulation of Fares**

Following the transfer of responsibility for setting fares from local authorities to the new Taxi Regulator, the Regulator announced a consultation period and detailed review of the fare setting mechanism.

In September 2006 the Taxi Regulator declared the entire country one taximeter area and introduced a new National Maximum Taxi Fare by fixing maximum fares for this National Taximeter Area.

In devising appropriate fare structures for Ireland, the Regulator considered that fare structures ought to be:

- Simple;
- Transparent;
- Equitable;
- Cost reflective; and
- Easy to administer.

The structure of the fare includes an initial charge that contains both a time and distance allowance. Further travel beyond the initial charge is based on a graduated structure of three tariffs based on journey length. The standard fare structure operates by day while a premium is attached to travel during unsocial hours. Certain extras also apply. This fare structure aims to mimic likely prices in a competitive market.

Fares are reviewed every two years. The fundamentals of the fare model are already in place so the review only takes into account cost inflation, which is derived from a weighted index of costs. The index is weighted to reflect the variable and fixed costs in running a vehicle.

### **4.4 Regulation of Quality**

The Taxi Regulator may establish qualitative requirements for the grant of a licence and set standards for quality of service. Regulation of quality in the taxi market comprises three strands; vehicle quality, driver standards and service.

#### **4.4.1 Vehicle quality**

Vehicle standards have been put in place by the Regulator.

- First, a new applicant for a taxi vehicle licence has to have the vehicle tested for its suitability for hire. The suitability test determines the number of passengers the vehicle may carry.
- Second, taxis must undergo the standard national car test for roadworthiness annually.<sup>15</sup>

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<sup>15</sup> In Ireland, ordinary vehicles must pass the national car test every two years.

- Third, taxi drivers all use the same fare meter and taxi signage.

#### 4.4.2 *Driver standards*

All new applicants for a SPSV drivers' licence are required to undertake a driver skills development programme. Topics covered by the programme include:

- Driving skills;
- Relevant legislation;
- Customer service;
- Disability awareness; and,
- Route selection and knowledge

The programme will be extended to existing licence holders from 2008, when their licences are due for renewal.

The programme will also become mandatory for the owners and managers of dispatch centres. It is envisaged that the failure rate for the course would be low, given the focus on developing skills rather than providing a rigorous test.

Under the current regime, a car is licensed for the entire country (taximeter area) but the driver is only licensed to ply for trade in the county where he/she took the taxi driver's test proving that he/she has knowledge of the local roads. This measure is to ensure that drivers can only operate in areas in which they are familiar.

The Regulator is proposing that in future drivers will be able to sit road knowledge tests in any county where they wish to ply for trade. They will have to display a sign in their taxi window saying the county they can ply in.

#### 4.4.3 *Quality of service*

At present there is no formal mechanism to reward outstanding service quality however Section 48 of the Taxi Regulation Act 2003 provides for the Regulator to establish quality service certification. The Commission has developed a quality service certificate on a pilot basis.

### 4.5 *Competition in the Taxi Market*

It is very difficult to arrive at an accurate measure of the level of supply due to a number of factors that distort the overall picture. There are currently 24,000 licensed SPSV (i.e. taxi, hackney and limousine) vehicles and 41,000 licensed SPSV drivers in Ireland.<sup>16</sup> The number of licensed drivers in excess of licensed vehicles distorts any estimate of supply and makes it difficult to regulate the fare as a balancing mechanism.

The large quantity of licensed drivers may be a result of the current driver licence fee structure. At present initial licensing fees are set at €6,300 for a taxi vehicle with a renewal fee of €125. The existing

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<sup>16</sup> Commission for Taxi Regulation, Annual Report 2006.

driver application process involves the fee of €15 for a five-year licence being paid in two parts to the local authority – €12 for the application and €3 on receipt of the licence in order to get a driver's badge. SPSV Driver's Licences are currently issued for a period of five years. The Regulator is considering rebalancing licence fees to increase the renewal element to cut down on nuisance renewals and to reduce the licence period from five to three years to reduce any incentive to transfer the licence to another operator.

Survey evidence shows that there is very little price negotiation in either public or private hire.<sup>17</sup> The reluctance to negotiate a lower price may be partly attributable to cultural norms but lack of knowledge among consumers is also a contributing factor. In addition, the distinction between private and public hire has become increasingly blurred by the growth in dispatch companies that operate both taxi and hackney services. From a consumer's point of view there appears to be little difference between a taxi and hackney but the absence of fare regulation on hackneys may lead to considerable differences in the cost of a journey.

#### **4.6 Dispatch Centres**

Taxis and hackneys are often affiliated to dispatch centres. A dispatch centre is a facility which receives booking from customers and allocates these booking among affiliated drivers.

While licences are awarded to individual drivers, those affiliated to dispatch centres must comply with the service standards of the dispatch centre. Affiliation to a dispatch operator does not compromise the independence or self-employed status of the licence holder but the co-ordination benefits consumers, as they don't have to ring each taxi individually until they find one that is available.

Historically dispatch centres were unregulated but new legislation enacted under the Roads Act 2007 has given the Commission for Taxi Regulation regulatory powers in this area. For this reason, the Taxi Regulator intends to establish a register of all approved dispatch centres and put in place key service standards and complaint handling systems.

Approximately 51% of taxis are affiliated to a dispatch company.<sup>18</sup> The relationship between taxis and dispatch centres varies. Dispatch companies may operate taxis or hackneys exclusively, or a combination of services. Dispatch companies also have informal relationships between each other to cater for excess demand during busy periods.

In general the dispatch centre provides the driver with the communications technology, such as GPS, and takes telephone bookings in return for a fee. Fees vary depending on the sophistication of the technology provided but survey evidence estimated that fees range from €45 to €100 per week.

### **5. Conclusion**

#### **5.1 Regulation of Entry**

The effects of entry deregulation on the taxi market in Ireland are difficult to determine precisely since a number of factors are at play.

It would be wrong to infer that actual supply has increased by the same magnitude as the number of taxi licences. First, prior to deregulation it was virtually universal practice for licence holders in Dublin to hire out their licence to 'cosy' drivers. Thus, any individual taxi was likely to be on the road twenty-four

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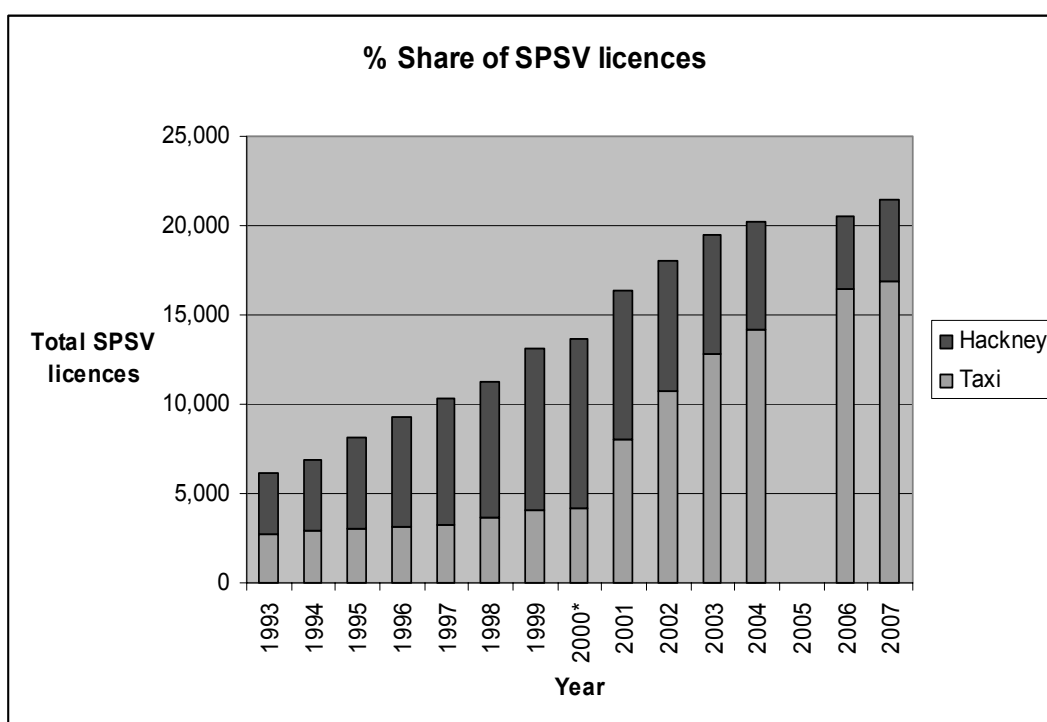
<sup>17</sup> *National Review of Taxi, Hackney and Limousine Services*, Goodbody Economic Consultants, 2005.

<sup>18</sup> *National Review of Taxi, Hackney and Limousine Services*, Goodbody Economic Consultants, 2005.

hours a day, seven days a week. The phenomenon of the ‘cosy’ driver is much less prevalent post-deregulation. Many such drivers have now simply acquired a licence of their own and the taxi is used only when they choose to operate. Thus, to the extent that ‘cosy’ drivers have acquired their own licences, the increase in supply to the taxi market is not as large as the rise in the number of licences would indicate.

Second, hackney drivers satisfied much of the excess demand that existed prior to deregulation. To the extent that hackney drivers have acquired taxi licences, the increase in supply to the taxi market is not as large as might appear.

**Figure 1. Change in Taxi and Hackney Licences in Ireland 1993 – 1999**



Source: Commission for Taxi Regulation

\*Entry to the taxi market was liberalised at the end of 2000.

The length of queues at ranks is not a particularly helpful indicator of the level of service being offered for a number of reasons. First, as the number of taxis plying for hire increases, the need to queue at a rank is reduced as customers can hail a taxi from anywhere on the street. Second, as the number of taxis increases consumers rationally expect to be able to get a taxi within a reasonable time and join taxi rank queues rather than take a bus or walk.

Despite these caveats on interpreting the uptake in taxi licences, survey evidence does suggest that in general, the public has welcomed deregulation of the taxi industry.

A study conducted by Goodbody Economic Consultants in 2005, as a follow-up to a similar study in 2001, found that the increase in supply of taxis had raised levels of service to consumers in terms of general availability and reduced waiting times. The proportion of trips that incur a waiting time of less than five minutes has increased from 23.1% in 1997 to 40.2% in 2005. The survey also found that consumers considered that the increase in availability was not at the expense of a deterioration in quality.

**Table 3. Waiting Times at Taxi Ranks in Ireland 1997, 2001, 2005**

<b>Proportion of trips that incur a waiting time of:</b>	<b>1997 %</b>	<b>2001 %</b>	<b>2005 %</b>
<5 Minutes	23.1	47.5	40.2
5-10 Minutes	35.4	22.7	33.8
11-20 Minutes	29.5	17.4	18
21-30 Minutes	6	6.4	5.8
31-60 Minutes	6	4.6	1.1
>60 Minutes	0	1.4	1.1
	100%	100%	100%

*Source: National Review of Taxi, Hackney and Limousine Services, Goodbody Economic Consultants, 2005.<sup>19</sup>*

**Table 4. Consumer Satisfaction Survey Results 2005**

	<b>Strongly Agree %</b>	<b>Agree %</b>	<b>Neither Agree nor Disagree %</b>	<b>Disagree %</b>	<b>Strongly Disagree %</b>
<b>Generally Good Service</b>	17.5	73.8	5.7	2.5	0.5
<b>Taxi Cabs are Good Quality</b>	13.6	71.3	9.1	5.5	0.5
<b>Taxi Cabs are Clean</b>	14.6	73.4	7.1	4.8	0.1
<b>Drivers are Helpful</b>	17.3	67.4	10.9	3.1	1.3

*Source: National Review of Taxi, Hackney and Limousine Services, Goodbody Economic Consultants, 2005.*

## 5.2 Regulation of Fares

The new fare regulation system is a sophisticated model which attempts to mimic a normal competitive market as much as possible. It is transparent and systematic and thus immune to lobbying by vested interests.

Once taxi drivers are able to ply for trade in a number of counties this will help ensure that demand and supply are well matched in local markets.

## 5.3 Regulation of Quality

Requiring taxi vehicles to undergo the standard national car test at twice the frequency of a private vehicle gives consumers some comfort that the taxi they are taking is definitely roadworthy without unduly raising the cost of running a taxi.

## 5.4 Taxi Hardship Fund

Despite a number of court decisions affirming that there can be no legal duty on the State to compensate taxi licence holders in relation to open market values of licences, the Irish Government appointed a Taxi Hardship Panel to examine the extent to which some individuals suffered as a result of deregulation.

Hardship payments commenced in December 2003 and payments totalling €17.5 million were made to 1,517 qualifying persons under the scheme. The scheme has been closed since September 2004.

<sup>19</sup> The methodology used in the report comprised consumer surveys, a survey of taxi drivers and extensive consultations with key stakeholders. Four public consultation meetings were held around Ireland and over 130 written submissions were received from interested parties.

The Finance Act 2001 included further mitigating measures and provided for a new scheme of capital allowances for expenditure incurred on the cost of taxi licences acquired on or before deregulation in 2000.

### **5.5 *Has Entry Liberalisation been a Success?***

Taxi deregulation in Ireland resulted from a decision by the High Court that rendered government policy of the time regarding taxi regulation unsustainable. Prior to 2001 the scheme to control taxi numbers had distorted competition for the benefit of incumbent operators and exemplified how a regulatory regime could be captured.

Certainly the liberalisation has benefited consumers enormously as they can now expect to be able to hire a taxi within a reasonable time and price. However the Irish experience since 2001 has shown that liberalisation of entry must be accompanied by commensurate fare and quality regulation.

## APPENDIX A- NATIONAL TAXI FARE STRUCTURE

NATIONAL MAXIMUM TAXI FARE			
Effective from 25th September 2006			
Taxi Fare Standard Rate 08.00h to 20.00h		Taxi Fare Premium Rate 20.00h to 08.00h & Sundays / public holidays	
<i>Distance rate applies unless speed drops below 21km/h when time rate applies</i>			
INITIAL CHARGE	€3.80 Fixed	INITIAL CHARGE	€4.10 Fixed
	First 1km or 170 seconds		First 1km or 170 seconds
TARIFF A	€0.95 per km Next 14km or 40min Up to €17.20	TARIFF A	€1.25 per km Next 14km or 40min Up to €21.70
	<i>Or</i> €0.34 per min		<i>Or</i> €0.44 per min
TARIFF B	€1.25 per km Next 15km or 43min Up to €36.00	TARIFF B	€1.45 per km Next 15km or 43min Up to €43.50
	<i>Or</i> €0.44 per min		<i>Or</i> €0.51 per min
TARIFF C	€1.63 per km Over 30km or 86min Over €36.00	TARIFF C	€1.63 per km Over 30km or 86min Over €43.50
	<i>Or</i> €0.58 per min		<i>Or</i> €0.58 per min
EXTRA CHARGES (where relevant)		Road toll charges as applicable	
Booking fee €2.00		Soiling charge €125.00	
Second & additional passengers €1.00 each (two children under twelve equal one adult)			
Tips at customers' discretion		Discounts at driver's discretion	

Fare are set to reflect the maximum charge of a journey but drivers may give discounts on fares. Customers have the right to request discounts before engaging the taxi. If discounts are not agreed in advance, the customer is liable to pay the amount calculated by the meter in full.

### A.1 Initial Charge

The initial charge is the amount which appears on the meter at the beginning of the journey. A new initial charge took effect from 25th September 2006, as part of the new National Maximum Taxi Fare. This is €3.80 and includes an initial distance of one kilometre or a period of 170 seconds.

## A.2 Further travel

After the distance or time that is included in the initial charge has been exceeded, the fare for further travel is calculated at small portions of the journey. At low speeds, or when a taxi is stationary, the fare is calculated on the basis of time. Once the taxi exceeds a certain speed, the fare is then calculated according to the distance travelled. The speed at which charges switch from being distance-related to being time-related is known as the “changeover speed”. The changeover speed is set to compensate the driver for operating at times of congestion but is not so low as to encourage unnecessary slowing to generate a higher fare. The changeover speed for the National Maximum Taxi Fare is just above 21 kilometres per hour.

The time-related rate for further travel applies at speeds below the changeover speed. This charge is uniform throughout the country, and is based on a graduated structure of three tariffs. Journeys that travel beyond the initial time or distance covered by the initial charge and that are short in distance and duration are subject to Tariff A, the lowest rate. For medium length journeys, the latter stages of the trip are charged at a higher rate: Tariff B. Very long journeys will have the end of the trip charged at Tariff C, the highest rate. The reason for the graduated fare structure is that a driver is more likely to return empty after completing a long journey as such trips often end in suburban or rural locations.

## A.3 Tariffs

From 8.00h to 20.00h, the rates for Tariff A are €0.95 per km and €0.34 per minute for the next 14km or 40 minutes after the initial charge. At premium rates, travel within Tariff A is €1.25 per km or €0.44 per minute. This tariff together with the initial charge should not cost more than €17.20 (or €21.70 at premium rates) or exceed either 15km or 43 minutes.

When the initial charge and Tariff A are exceeded, the meter will record further travel on Tariff B. From 8.00h to 20.00h, the rates for Tariff B are €1.25 per km and €0.44 per minute. At premium rates, travel within Tariff B is €1.45 per km or €0.51 per minute. This tariff together with the initial charge and charges under Tariff A should not cost more than €36.00 (or €43.50 at premium rates) or exceed either 30km or 86 minutes.

Longer journeys in excess of Tariff B will be charged on the basis of the rates in Tariff C. Tariff C is not subject to any premium during unsocial hours, and is calculated on the basis of €1.63 per km or €0.58 per minute at all times.

It would not be reasonable or safe to expect taxi drivers to undertake journeys of unlimited distance, and as the current right to refuse a journey outside of existing taximeter areas will no longer apply, the Commission for Taxi Regulation will introduce new regulations giving taxi drivers the right to refuse journeys over 30 kilometres from the pick-up point.

## A.4 Premium charge

A premium applies to taxi fares at certain times to encourage supply. These are generally known as unsocial hours rates and apply in particular to taxi operation each night, and throughout the day on Sundays and public holidays. The Commission for Taxi Regulation has standardised the premium rate across the country as part of the National Maximum Taxi Fare. A premium of 8% will apply to the initial charge between 20.00h and 8.00h and on Sundays and public holidays. Further travel within Tariff A will incur a premium rate of 32% and within Tariff B a premium rate of 16%. No premium will apply to Tariff C.



#### **A.5 Booking charge**

When a taxi is booked in advance, taxi drivers will be permitted to charge a maximum of €2 for being “called out”. This charge will not apply to taxis hailed on the street or engaged at taxi ranks or at transport terminals.

#### **A.6 Additional charges**

An additional charge of €1 may be charged by taxi drivers for each additional passenger. Carrying of luggage is considered an integral part of an SPSV service and is therefore reflected in the basic charge. Charges which previously applied in some areas, including charges for extra stops, and charges for hiring at the rank at Dublin Airport, are not permitted under the new National Maximum Taxi Fare. A soiling charge of €125 is payable by passengers who dirty or damage a taxi to the extent that it has to be taken out of service or will incur a cost to clean or repair.

## ITALY

### 1. Regulatory restrictions

#### 1.1 National Regulation

Taxi services in Italy are regulated both at the national and local level. The regulation concerns access, quantitative limits, fares and other service characteristics.

The general principles of the sector regulation are stated in a national law, Act n. 21/1992. Part of the implementation is established in regional laws but it is at the local (municipal) level that the economic and qualitative standards are regulated with provisions concerning the number of licenses, the assignment procedures, fares and quality of the service.

Taxi services are defined in the law as public services. This implies the obligation, expressly stated in the law, for taxis to pick up all customers, and to serve any destination within the administrative limits for which a license is assigned<sup>1</sup>.

As far as entry in the market is concerned there are two important restrictions stated in the national law. The first one concerns the characteristics of the subjects that can apply for a license, that can only be individuals<sup>2</sup>. The second one is that each individual can not hold more than one license<sup>3</sup>. The only form of organization of the business that the law admits is the possibility of substitution for the driver who is assigned the licence, under specific circumstances<sup>4</sup>. The only form of organization that emerged is that of cooperatives of taxi drivers that offer some common services (for example radio dispatch services). Licenses are granted by Municipalities up until now for free but once obtained they can be privately traded. The conditions for trading the licenses are also contained in the national law. Since for many years (sometimes even twenty or thirty years) most Municipalities did not grant any new license, buying one has been the only way to enter the market.

The national law also contains the provisions for private hire services (so called “rental with driver”). These services, as taxis, provide point to point personal transport, but while taxis are available at taxi ranks, can be hailed on the streets or be pre-booked by telephone, private hire services can only be pre-booked. In order to provide private hire services it is not necessary to hold a licence but an authorization is

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<sup>1</sup> Art. 2, Act n. 21/1992.

<sup>2</sup> Individuals who want to apply for a license (or to work as substitute drivers) have to register in a list, held at the regional level (Art. 7). In order to be able to register it is necessary to prove compliance to some standards showing professional ability (including passing a test on route knowledge).

<sup>3</sup> Art. 8 Act n. 21/1992.

<sup>4</sup> Substitute drivers have to register themselves in the regional list and possess the same characteristics of drivers. Substitution is admitted when the holder of the license cannot provide the service for health reasons, service in the army, holydays for no more than thirty days or temporary suspension of the driving license.

sufficient<sup>5</sup>. Besides, there is no restriction on the number of authorizations that an individual can hold. The other main difference with respect to taxi services is that private hire vehicles' fares are not regulated. These services, therefore, thanks to a softer regulation, developed as an alternative to taxi services especially for customers needing transport that can be pre-booked (airports, railway stations etc.).

## **1.2 Local Regulations**

Quantitative and qualitative restrictions of taxi services concerning conditions of entry and conduct are regulated at the local (municipal) level following general criteria outlined in regional laws. In particular Municipalities establish number and characteristics of vehicles, rules of service provision (such as shifts), and the criteria for setting taxi fares.

### *1.2.1 Entry in the market*

City Administrations fix the number of taxi licenses, how frequently to assign new licenses and the assignment procedures<sup>6</sup>. Licenses, up to now, have always been assigned for free, through a public procedure. When assigning new licenses the City Administration establishes the number and the requirements (one of the requirements being, for example, past experience as substitute driver). The applicants are then ranked through a point system and the licenses are assigned to the first candidates in rank. In recent years every time City Administrations have announced the intention of assigning new licenses there have been protests by taxi drivers that often resulted in the reduction of the number of assigned new license or even in the decision of not assigning licenses at all.

In Milan, for example, new licenses had not been assigned for twenty years until 2004, when the City Administration announced the issuing of 500 licenses. After taxi drivers protests only 240 new licenses were assigned. In Rome 500 new licenses were assigned in 1981, 1988 and 1996 (for a total of 1.500 licenses). In 2005 the Rome Municipality opened a procedure to assign 450 new licenses. Due to the high number of requests (6.600) the procedure took a very long time, and the new licenses have been effectively assigned only recently. In Bologna the number of licenses has not changed since 1981, in Naples, since 1997. The number of assigned licenses and the taxi/population ratios are reported in Table 1.

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<sup>5</sup> The administrative procedure for the assignment of an authorization is usually simpler and faster than the one necessary for the assignment of a license.

<sup>6</sup> The total number of taxi licenses available in Italy is 20.444. As it might be expected the supply is greater in larger cities. The number of licenses with respect to the population shows large differences so the national average (4,5 licensees every 10.000 inhabitants) is not very indicative.

**Table 1. Taxis in a number of Italian cities**

<b>City</b>	<b>Number of licenses</b>	<b>(number of taxis/1.000 residents)</b>
Roma	6,123	2.2
Milano	5,323	2.4
Firenze	594	1.6
Bologna	657	1.8
Torino	1,505	1.7
Genova	869	1.4
Palermo	322	0.5

Source : *Annual Report of the Agency for Public Services of the City of Rome, 2006*

As a result of the supply restrictions the market value of licenses increased. Estimates set this value in big cities between 140.000 and 300.000 euros<sup>7</sup>. The fact that in recent years buying a license at these market values was, in practice, the only way to enter the market amplified the opposition of (existing) taxi drivers to any reform increasing the total number of licenses.

### 1.2.2 Conduct regulations

The main elements of conduct regulation at the municipal level concern fares and minimum service requirements (organization of shifts).

#### Fares

Fares are established by Municipalities and therefore they are different across the country. The structure adopted, however, is generally the same with a fixed component (not dependent on distance and time) and a variable component. The fixed component can be differentiated on elements such as the day of the week (with higher fares on Sundays and holydays) or the time of the day (with higher fares at night). The variable part of the fare is based on the distance of and the time required for the journey<sup>8</sup>. Finally, there are additional charges (for example for the transport of large luggage or animals).

According to estimates the average price of a taxi journey of five kilometres is 7.5 euros, from a minimum of 5.5 euros in Sicily to a maximum of 9.3 euros in Rome<sup>9</sup>. The fixed component is, on average, around 2.8 euros, while the variable component is on average 1 Euro per kilometre. This is the fare in normal traffic condition. Of course the fare increases in situations of traffic congestion.

<sup>7</sup> Boeri, T., Un taxi chiamato desiderio, [www.lavoce.info](http://www.lavoce.info), July 2006 and Visco Comandini V., Gori S. and Violati F., Le licenze dei taxi: abolizione, regolazione o libero scambio di diritti?, in *Mercato, Concorrenza e Regole*, n. 3, Dicembre 2004, pp. 515-48.

<sup>8</sup> In big cities (for example Rome) the variable fare depending on distance is applied when the vehicle's speed is above 20 Km/hour, while a fare depending on time is applied when the speed is lower.

<sup>9</sup> Chiara Bentivogli e Manuela Calderini, The Taxi Service in Italy: Motivation and Outline of the Recent Reform, Bank of Italy Occasional Papers No. 5 – February 2007. This paper presents a quantitative and analytical documentation to the debate on taxi service liberalization based on the results of a survey of the Bank of Italy in the main Italian cities.

## Shifts

The justification for shift regulation is that licenses are granted to individuals and that taxi services must be granted at all times of day and night and in all areas of cities. Since licenses are granted to individuals the shift system limits the hours of driving for security reasons. The schemes adopted for shift regulation differ from one city to another. In Rome, Naples and Florence drivers are assigned fixed shifts (that they can swap with other drivers), while in Turin, Genoa and Bologna taxi drivers can choose freely their shifts, provided that they do not exceed the limit of 12 hour driving. In the city of Milan there is an intermediate solution and although taxi drivers are assigned fixed shifts, every five days they can request to change shift. The City administration registers the changes in a data bank and can therefore monitor the number of vehicles available at all times of day and night.

One of the main problems that municipalities experience in the attempt to optimize shift organization in relation of demand patterns is the difficulty to monitor that shifts are respected.

A consumer survey conducted by the Agency for Mobility in the city of Rome in 2001 showed an average unmet demand of 20%, with peaks of 40%<sup>10</sup>. The radio dispatch services registered 20 to 30% unsatisfied calls. The estimated average waiting times for a taxi was 15 minutes. As for customers satisfaction, one out of three frequent customers judged the taxi services insufficient and of low quality (old and dirty cars).

Other local regulations concern localisation of taxi stations, safety requirements for vehicles, organization of radio network dispatch services.

## 2. Advocacy Reports

The Italian Competition Authority expressed its view on the restrictions contained in taxi services regulation in two advocacy reports<sup>11</sup>. In 1995, recognising the importance of protecting the public when determining the quality and the quantity of the service, the Authority considered that there were good reasons why the administrative authorities should impose limits on maximum charges, make the service mandatory and set professional standards for taxi drivers, but that there was no justification, as far as protecting consumers was concerned, for the administrative control of minimum taxi fares.

In 2004, the Authority issued a new report, containing suggestions to foster a gradual process of liberalization. In order to ease quantitative restrictions to market access, the Authority suggested to give a free licence to every current licence holder, who might sell them or use them. This would entail the abolition of the existing prohibition to hold more than one licence. The Authority also suggested additional measures in order to bridge the gap between demand and supply. The suggested measures included: *i*) issuing part-time licenses, in order to increase the supply of taxi service in periods of peak demand; *ii*) eliminating the current territorial segmentation, in order to allow licensees to provide taxi service outside of the geographic district for which the license was originally issued; *iii*) granting licenses for the provision of innovative taxi services; *iv*) promoting services alternative or complementary to traditional ones, such as “taxibuses” and group taxi service.

<sup>10</sup> STA, S.p.A., Attività di monitoraggio della domanda e dell’offerta del servizio di taxi nel Comune di Roma, 2001.

<sup>11</sup> Advocacy Report (AS 53), July 28, 1995, “*Passengers Transport Services by Taxi*” on Act n. 21/92 and Advocacy Report (AS 277), March 3, 2004, “*Competition Distortions in Taxi Services*”.

### 3. The recent reform to taxi regulations

The suggestions by the Antitrust Authority were partially taken on board in the recent reform of taxi regulations.

In June 2006 Decree n. 223/2006, which liberalized a number of sectors in the Italian economy, abolished the requirement that individuals should hold only one taxi license and allowed Municipalities to issue new taxi licences through a bidding process (while in the past they were issued for free). The Decree was immediately enforceable, but was subject to change, since Parliament had 60 days to discuss it and, eventually, approve it.

The decree created a very strong reaction by taxi drivers (with strikes and demonstrations in major cities) that protested that their income would strongly be reduced, if new licences were issued. They claimed that any problem in taxi services originated from excessive private traffic (especially at peak hours) and that any increase in the number of taxi licenses would lead to greater traffic, i.e. reducing taxi drivers income without any improvement in quality. The protests, to which a large majority of taxi drivers participated, led the Government to maintain the requirement that each individual could hold only one taxi licence. Parliament approved.

According to the new law Municipalities have greater flexibility in the organization of taxi services. In particular they are now allowed to:

- organize additional shifts for taxis in order to increase the overall number of available cars at peak times;
- issue new licences, in case to be awarded, through tenders, to qualified people who are not already taxi licence holders (i.e. the requirement that taxi licences are granted only to individuals and that each individual should hold only one taxi licence is maintained). At least 80% of the income from any tender shall be used to compensate the holders of existing licences. The Municipalities shall use any additional resources to improve non scheduled public transport services;
- provide temporary or seasonal licences (with preference for hire car drivers and taxi licence holders) in order to cope with special circumstances that may occur;
- regulate the price of taxi services for specific routes (e.g. airports, stations), so as to avoid the exploitation of market power with respect to inexperienced customers (i.e. tourists).

There is limited experience available yet on the application of these provisions. In general, in an attempt to overcome the protests, most Municipalities opted for some form of consultation with the associations of taxi drivers and made agreements for the implementation of the new regulation. The taxi drivers associations, in the course of these consultations, generally asked for an increase of fares (which they obtained in Milan).

The most difficult issue, of course, was the introduction of new licenses. Only in Rome and in Florence new licenses have been announced, not through a bidding process though, as allowed by the new regulation, but for free<sup>12</sup>.

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<sup>12</sup> In Florence the public procedure for issuing 60 new licenses opened in May 2007, while in Rome, although the intention to assign 1000 new licenses was announced in November 2006 the procedure to assign them is still to be defined.

In Milan the City Administration agreed with taxi drivers representatives to introduce more flexible shifts, the addition of a shift for peak hours using substitute drivers, some form of control on the respect of shifts, fixed fares for some specific routes and special fares for some categories (such as senior citizens, etc). In Florence, besides the 60 new licenses (in part to be used to introduce collective taxis) longer shifts during high season, fixed tariff on some specific routes (airports, hospitals) were introduced. In Turin an experimental fixed tariff of 5 euros within the area of town where private vehicles' circulation is limited during the day (7.30-19.00) is being experienced. Other agreements were reached in Genoa, Naples and Bologna (generally for the regulation of the price of the service for some specific routes). In Rome there was an agreement between the City Administration and the taxi drivers' associations for the regulation of the prices between the two main city airports (40 euros from Fiumicino and 30 euros from Ciampino, inclusive of luggage) and the city center. A new municipal regulation introducing, among other things, the possibility to use a bidding process in order to assign licenses, as well as stricter controls on respect of shifts, is in course of discussion with taxi drivers' associations.

#### **4. Conclusions**

The Italian experience shows how difficult it is to liberalize taxi services, the main reason being that taxi drivers, contrary to most protected service providers like pharmacy owners or professionals, are low to middle income people, so that even when liberalization finally makes it on the political agenda, there is some reluctance to act against them, also because of the loud protests they are able to organize. One promising possibility would be to promote the emergence of differentiated services in city centres, for example three wheelers or for hire vehicles, so that the discipline from competition would originate outside of the protected category.

## JAPAN

### **1. Restrictions on entry (restrictions relating to taxi licensing, driver screening and others)**

Regarding restrictions on entry into a taxi business, regulations to adjust supply to demand were abolished in February 2002. These regulations had reviewed whether the transportation capacity provided through companies was in balance with the demand for transportation. At present, a system is in place under which an entry is permitted when an application meets certain criteria that have been established from the viewpoint of being able to ensure the safety of transportation and the appropriateness of business operations (Article 4 of the Road Transportation Law).

Requirements for taxi drivers include being at least 21 years of age and being in possession of a second class driver's license. To operate as a self-employed taxi driver, it is also necessary for the applicant to have an owner-driver's license issued by the Ministry of Land, Infrastructure and Transport.

In designated areas, which are currently Tokyo and Osaka, only drivers registered in the special taxi driver register are allowed to drive taxis (Article 3 of the Special Measures Law for Adjusting the Taxi Business).

### **2. Market failure (need for government regulations and others)**

In the taxi industry, companies are under the strong impression that they can increase their market share by increasing the number of taxis they operate, even during periods of economic stagnation. Companies are also highly motivated to increase the number of taxis they operate because this can be achieved without such an excessively large investment. Therefore, there is a structural tendency towards oversupply in the industry.

In addition, since personnel costs account for a high percentage of the fare costs and the commission-based salaries place the risk of revenue reduction on drivers, reducing the number of operating taxis and exiting from the business are unlikely to occur. Therefore, a considerable portion of possible revenue reduction has a rebound effect on drivers' salaries. This situation tends to encourage drivers to work long hours and drive in a state of extreme fatigue.

Furthermore, it is difficult for customers to choose the taxi they get in and to know the level of service beforehand, as they usually catch a taxi that is passing by or parked at a taxi stand.

Considering these characteristics, the Minister of Land, Infrastructure and Transport is allowed to designate emergency adjustment areas and suspend new entries and taxi increases for a certain period when a state of extreme oversupply emerges and passengers' safety is threatened by drivers in a state of extreme fatigue or there is a fear that the interest and convenience of customers are impaired (Article 8 of the Road Transportation Law).



### **3. Fare regulations**

Concerning taxi fares and fees, approval has been given to 90 fare blocks nationwide. In each block, the fares are subject to approval based on criteria such as whether or not the fares exceed the sum of adequate costs and profits.

Starting fares within the range of maximum and minimum fares (where the minimum fare is approximately 10% lower than the maximum fare), and additional distances and additional fares in relation to the starting fares, are established as being subject to automatic approval and announced in advance by the director generals of the district transport bureaus and other personnel. The arrangement renders it unnecessary to submit cost accounts and other accompanying documents when applying for approval for fares within this range, and approval is promptly granted. However, in the case of applying for fares that are lower than the minimum fare, it is necessary to submit cost accounts and other documents so that the fares can be individually reviewed.

In principle, applications for fare revisions to set fares above the current maximum level are accepted in each fare block within three months of the initial application. The procedure for fare revision is launched when the aggregate number of taxis operated by the companies making the applications exceeds 70% of the aggregated number of taxis operated by all companies in the relevant fare block.

The Minister of Land, Infrastructure and Transport is empowered to issue an order to change fares and others when they are deemed to fall under any of the following conditions (Paragraph 6, Article 9 of the Road Transportation Law):

- They are significantly inadequate in the light of social and economic conditions and can impair the interest of passengers;
- They unjustly discriminate against specific passengers; and
- They can cause unjust competition.

### **4. Restrictions on the quality of service (minimum requirements for service provision and others)**

A refusal to provide transportation is prohibited except where the equipment required for transportation is not available, where the customer requests a special burden, where natural disasters and other unavoidable events affect transportation, and other cases (Article 13 of the Road Transportation Law).

In addition, there is the requirement for approval of the conditions of transportation. Various aspects are reviewed, such as whether the interests of customers are not impaired and whether the liability of the company is clear (Article 11 of the Road Transportation Law).

### **5. Regulations on market access (zoning system and others)**

Six hundred fifty-five business zones have been established nationwide. Companies are not allowed to transport passengers when both the trip's origin and destination are located outside their business zone (Article 20 of the Road Transportation Law).

## **6. Mechanism of restriction supervision**

The audits performed on taxi business operators include special audits, circuit audits, call-out audits and call-out instructions.

In principle, an audit is performed without advance notice.

- A special audit is an audit concerning the degree of legal compliance performed on companies that have caused accidents resulting in serious social impacts including fatal accidents, accidents caused by drunk-driving and other serious legal violations, and on companies that have engaged in serious legal breaches.
- A circuit audit is an audit concerning certain prioritized items, in principle, performed on companies that are suspected of legal violations on the basis of accidents, complaints or reports made by parties, including prefectural public safety commissions. [Such prioritized items include the degree of compliance with the business plan (out-of-zone transportation and others) and the level of operational management (driving in a state of extreme fatigue and others).]
- A call-out audit is an audit concerning certain prioritized items, in principle, performed on companies when illegality and the need for an audit are reported by parties including prefectural public safety commissions.
- A call-out instruction is an instruction concerning legal compliance performed on companies that are not found to be making legal violations. Those companies are summoned.

When such audits and instructions confirm legal violations, an administrative penalty is imposed. The types of this administrative penalty include, in order of increasing severity, prohibition on the use of cars and other transportation equipment, the suspension of business activities, changes to the business plan concerning the abolition of the business zones, and the cancellation of permission. Punitive measures lower in level than administrative penalties include, in order of increasing severity, verbal reprimands, recommendations and warnings.

## **7. Regulatory reforms and their effects**

Regulations to adjust supply to demand were abolished in February 2002, resulting in the liberalization of the passenger transportation service supply, with the exception of minimum restrictions to protect customers and others. The purpose of the abolishment was to increase the interests and convenience of customers, such as the diversification and sophistication of services, by vitalizing and streamlining the business activities through creative efforts by companies and fair competition in the market.

As a consequence, 576 companies with 19,879 taxis have applied to enter the business over the past five years, resulting in an 8.4% increase in the number of companies and a 9.7% increase in the number of taxis. In addition, a large variety of fares, including long-distance discounts and flat fares, were introduced, and service diversification gave birth to such services as welfare taxis to support the aging society.

## **8. Antimonopoly Act cases in taxi services**

Recent cases in which the JFTC issued cease-and-desist orders or warnings against anti-competitive conduct are described below.

**8.1 Case against the Matsuyama branch of the Ehime prefectural limousine rental and taxi association and Matsuyama Joint Bill Collection Company (Warning on June 28, 2007)**

A trade association consisting of taxi operators was suspected of limiting the number of taxi operators in the territory of the former Matsuyama City by, for example, adopting membership restrictions. (Limiting the present and future number of companies in any particular business field by trade associations) The association was also suspected of unjustly restricting the business activities of its members by limiting the use of taxi stands under its management. (Unjustly restricting the abilities or activities of the members by trade associations)

The company operating the common ticket business<sup>1</sup> was suspected of refusing to deal with non-members of the association. The company was also suspected of engaging in transactions with new members through unreasonably discriminatory pricing compared with incumbent members who, for example, invested in the company. (Other refusal to deal and discriminatory pricing as unfair trade practices.)

**8.2 Case against taxi operators in Niigata City (Cease and desist order on June 25, 2007)**

Twenty-one taxi operators had common ticket business operator “A” dissolve with the intention of preventing low-fare taxi operators from signing agreements on the common ticket business with A. They also established three new common ticket business operators, and prevented these three operators from signing agreements on the common ticket business with those low-fare taxi operators. In these ways, the twenty-one taxi operators jointly forced the common ticket business operators to refuse to sign agreements on the common ticket business with the low-fare taxi operators. (Other refusal to deal as an unfair trade practice)

**8.3 Case against a taxi association within the premises of Komatsu Airport and the branch of the Komatsu district taxi association covering the premises of Komatsu Station (Warning on July 4, 2006)**

Two trade associations consisting of taxi operators were suspected of restricting the number of taxi operators within the premises of Komatsu Airport and Komatsu Station by revising and establishing internal regulations for the purpose of requiring taxi operators that had applied for membership to those associations, in the hope of operating taxis within those premises, to wait for two years from the date of application. (Limiting the present and future number of companies in any particular business field by trade associations)

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<sup>1</sup> A common ticket business refers to the business of issuing common taxi tickets to customers who may use taxi services provided by specific taxi companies, and to collect, in place of the taxi companies concerned, the amounts stated on the tickets from those customers such as central government agencies, private companies and other parties that have signed an agreement on the use of the common taxi tickets in advance.

## KOREA

### 1. Grounds for regulation of taxi services

From the very beginning, Korea's taxi services were subject to the government's regulation due to the public nature of transportation services. The Automobile Transport Business Act was enacted in 1961 and now the Passenger Transport Service Act regulates taxi-related matters, including taxi license, taxi fare, qualifications for taxi drivers and the cap on the number of taxis allowed to operate in a region.

Korea's taxi services market lacks an institution whereby taxi users can recognize the difference between different services and choose an operator with a better service. It is particularly the case for the rank taxi and the hail taxi, because rank taxi service is provided on the first-come-first-serve basis and hail taxi service is more dependent on chance factors. This difference in the nature of the service makes it difficult for taxi users to compare taxis before choosing one.

Meanwhile, Korea's taxi services business is largely divided into the general taxi services business and the individual taxi services business under the Passenger Transport Service Act, and taxis are categorized into five types (small, medium, large, deluxe and premium).

### 2. Entry barriers

#### 2.1 *Taxi service entry barriers*

Korea's taxi operators need to get a license from competent authorities as prescribed in Article 5 of the Passenger Transport Service Act. The right to issue taxi licenses has been delegated to mayors and county governors from the Minister of Construction and Transportation.

There are requirements for taxi business license, including the minimum number of registered vehicles, the size of the garage and other conditions of subsidiary facilities. For example, as for corporate taxi businesses, those in Seoul and Busan should have more than 50 vehicles while those in other cities need to have more than 30, and the garage size must be 13 by 15 meter. In addition, they must have operation facilities like business offices.

In the case of individual taxi businesses, the garage size must be 10 by 13 meter and the driver must have no record of accident for more than five years of driving business vehicles (including no record of accident for more than ten years of driving private cars as a hired driver) or have fewer than three instances of being fined for violation of duties as a professional driver over the past three years. In addition, the driver's accumulated penalty point, imposed for traffic violations under the Road Traffic Law, must not exceed 180.

Although there is no provision restricting new taxi license issuance, the government has introduced a cap on the number of taxis permitted to operate in a region in order to allow each local government to control taxi supply. The cap was designed to calculate the appropriate taxi supply volume in consideration of the demand in each operation zone and then to maintain the taxi supply volume in a stable manner within the scope not exceeding the appropriate volume. This system is intended to ensure stable management of taxi supply in the long term by deterring an increase in taxi supply, in the face of falling

demand caused by expansion of public transportation and increased car ownership, and also by preventing aggravation of oversupply caused by the discretionary issuance of individual taxi service license by local governors.

**Table 1. Overview of the cap on the number of taxis permitted in a region**

	<b>Main points</b>
<b>Taxi occupancy rate</b>	- population more than 500,000: 55% - population less than 500,000: 50% the license issuer can adjust the rate within $\pm 2\%$
<b>Taxi operation rate</b>	80% regardless of the city size the license issuer can adjust the rate within $\pm 5\%$
<b>Region</b>	The cap system is implemented in each operation zone, and exceptions are granted to Gun (county)-level regions

## **2.2 Taxi driver's license regulation**

Under the Passenger Transport Service Act, those wishing to drive a taxi need to take a test conducted by the mayor or the governor to obtain taxi driver's license. The taxi driver's license test covers matters related to laws on road safety and traffic, safe driving, transportation service and familiarity with the geography. Familiarity with the geography of the concerned local area is considered particularly important, and devices like Navigation and GPS are only regarded as supplementary tools.

## **2.3 Trade of taxi service licenses**

Taxi service licenses can be traded. Corporate taxi service licenses can be traded for the amount exceeding the limit set by the law. Normally, a license is sold for prices between 20 and 50 million won though the price may vary according to the circumstances of the operation zone.

## **3. Taxi fare regulation**

Korea's taxi fare system changed from a distance-based fare system introduced in 1976 to a time or distance-based fare system introduced in 1985. Then in 1994, a time and distance-based fare system was newly introduced.

Meanwhile, the authority to adjust taxi fares was delegated to mayors and governors from the Minister of Transportation and Construction in 1994. Then in 1998, a taxi fare notification system was adopted, under which taxi operators decided the taxi rates or fares within the scope set by the mayor or the governor and notified the mayor or the governor of their decision.

Current taxi fare system consists of the basic fare, additional fare and extra fare, and a fare system based on both travel time and distance is applied for the amount exceeding the basic fare.

**Table 2. Taxi fare system and application standard**

<b>Fares</b>	<b>Application standard</b>
Basic fare	A certain amount of basic fare is charged for a distance less than 2km (travel-time based basic fare can be applied instead according to the decision by the mayor or the governor).
Distance-based fare	For the distance beyond the basic fare, a certain amount of fare is charged for every base distance added.
Time-based fare	For the time traveled at a speed slower than a base speed, a certain amount of fare is charged for every base time (the mayor or the governor may decide not to set a base speed).
Discount/extra fare	Outside-city-boundary surcharge, late night surcharge (surcharges do not apply to large, deluxe and premium taxis)
Others	Call charge and toll charge are separately applied. In case operation zones are integrated, operators consult with the competent authorities to unify the fare system, which is then accepted in the names of the administrative authorities overseeing the concerned operation zones. Different fare system may be applied according to Article 7 of the Guidelines on operating standards for taxi system and the Ministry of Construction and Transportation's Directive No.303.

**Table 3. Overview of taxi fare system**

<b>Fare system</b>	<b>Fare calculation</b>
Distance-based fare	basic fare + additional fare - additional fare increases with distance
Time or distance-based fare	basic fare + additional fare - only distance-based fare is applied when the speed is over 15km/h - only time-based fare is applied when the speed is below 15km/h
Time and distance-based fare	basic fare + additional fare - only distance-based fare is applied when the speed is over 15km/h - both time-based fare and distance-based fare are applied when the speed is below 15km/h

In June 2006, the Ministry of Construction and Transportation abolished the provision that used to make taxi fares within a same operation zone the same, following the KFTC's proposal for revision of anti-competitive regulations. As a result, it became possible for mayors and governors to apply differentiated fare systems according to the vehicle type and the service level. In addition, the law was changed to allow mayors and governors to decide the specifics of the taxi fare-related policies, such as posting of taxi fares on the outside of taxis intended to avoid passengers' confusion and to guarantee passengers' right to choose.

#### **4. Quality Regulation**

The Passenger Transport Service Act provides for a system of evaluating taxi operators on vehicle age, management and services. The "vehicle age limit system" prohibits vehicles used for taxi services operating beyond certain years set for each type of vehicle and business.

**Table 4. Age limit for taxi services vehicles**

Vehicle type		Business type		Age limit
			Small	3.5 years
Passenger car	For passenger transportation services business	General taxi	Displacement less than 2,400 cc	4 years
			Displacement more than 2,400 cc	6 years
		Individual taxi	Small	5 years
			Displacement less than 2,400 cc	7 years
		Displacement more than 2,400 cc	9 years	

The vehicle age limit system was first introduced in 1978 in an attempt to promote scrap or early replacement of outdated cars, to reduce traffic accidents and to improve passenger services. Then in 1997, the system was abolished because it was seen as an unreasonable regulation that excessively invaded enterpriser's management right. But in 2000, the system was reintroduced to promote traffic safety.

## 5. Market access rules

Regardless of corporate taxis and individual taxis, taxi operators are not allowed to operate outside their operation zones in principle. Nevertheless, they can take on passengers in their operation zone and drive outside the zone, and after dropping passengers outside their zone, they are allowed to load passengers on their way back.

Without such rules on market access, taxi operation will be concentrated in areas with large population or floating population, which will cause inconveniences for people living in rural areas, where it will become harder to find taxis. In this regard, regulation of taxi operation zone is essential. In case there arises a shortfall in taxi supply as a result of restriction on taxi operation zone, the problem can be resolved through readjustment of the shift system or a reasonable raise in the number of vehicles.

## NETHERLANDS

### 1. Introduction

In the Netherlands there have been two important set of reforms in the regulation of taxi services in the past decade. Firstly, in 2000 a new law on passenger transport services (Wet Personenvervoer; WP 2000) was implemented. Secondly, based on an evaluation of the WP 2000, a number of policy changes have been announced in 2004. This contribution will first discuss these reforms and subsequently the market failures and current regulation.

### 2. Reforms 2000 (WP 2000)

#### 2.1 Regulation before 2000

Before 2000 capacity was regulated, fares were fixed and licenses were valid in a particular region only. This resulted in a discrepancy between supply and demand. The taxi was not sufficiently able to adjust to a changing demand and explore new markets. Various policy changes as of 1988 did not solve this problem. This was partly due to the fact that decentralisation did not result in less restrictions for taxis because of the regulations implemented by the 27 licensors (local authorities).

#### 2.2 Policy aims

The goal of the WP 2000 was to enhance the position of taxi services within the whole chain of passenger transport services. This meant that it aimed at:

- an absolute increase in taxi consumption; and
- a relative increase in taxi consumption compared to other modes of transportation, especially the car.

#### 2.3 Reforms

A combination of regulatory changes, supplementing measures and more intensive control and enforcement was supposed to improve the connection between supply and demand through increased competition. The reforms were:

- Deregulation of capacity restrictions: in 2000 national capacity regulation replaced the local restrictions and in 2002 restrictions were abolished altogether.
- A temporary maximum fare regulation replaced the fixed fares: the maximum fare was intended to protect the consumers from excessive prices in the period 2000-2002. In 2002 fare regulation was supposed to be abolished altogether, except when an evaluation would indicate that this would be undesirable.
- Abolition of the geographical restrictions of licenses to make the development of a national market possible.



- Quality regulations on the operators, taxi drivers and the cab itself to insure a minimum quality.
- Increased control and enforcement through the Transport and Water Management Inspectorate ([www.ivw.nl](http://www.ivw.nl)).
- Abolition of the obligation for taxi drivers to be accessible and available 24 hours a day.
- A supplementing measure was changing the infrastructure at taxi ranks to make it possible for taxis to drive off separately.

#### **2.4 Effects**

In June 2004 the evaluation of the taxi policy in the period 1999-2003 and the accompanying response of the Cabinet were presented (see table 1 for an overview of the effects). It was observed that the expected improvements for consumers were not all realized. The Cabinet stated that this was mainly due to the weak position of the consumer when hailing a taxi on the street or using a taxi rank ('street taxi market'). However, the consumer was in general not worse off compared to the situation before 2000:

- fares increased in line with cost price developments,
- the appreciation of quality was still as high as before and
- the availability of taxi services slightly improved.
- Concerning the 'street taxi market' the evaluation identified several problems, especially in the larger cities:
  - relatively high prices,
  - little diversity in supply,
  - problems on taxi ranks and
  - a lack of transparency in pricing and quality.

In addition, the capacity regulation till 2000 had resulted in a shortage of taxi licenses. This had increased the market value of the licenses. Because these losses were not compensated, the abolition of the restrictions on capacity led to a lot of upheaval.

### **3. Reforms 2004**

#### **3.1 Policy aims**

The policy changes based on the evaluation of 2004 were aimed at:

- guaranteeing a minimum quality of taxi services for consumers and
- guaranteeing freedom of choice for consumers.

### 3.2 *Reforms*

Minimum quality is guaranteed through:

- an examination for taxi drivers,
- increased supervision and measures to solve local bottlenecks through covenants with the four largest cities (Amsterdam, The Hague, Rotterdam and Utrecht),
- promoting a quality mark,
- new rules for filing and handling complaints
- an onboard computer.

Freedom of choice is guaranteed through:

- increasing transparency: a different fare structure (as of November 2007) and a more clear-cut fare chart.
- intensified supervision: more cooperation between police forces and use of ICT and e-government to check on drivers behaviour.

### 3.3 *Effects*

Currently the Ministry of Economic Affairs is researching the results of regulatory reform in The Netherlands in 13 sectors over the past ten years. This review will also include the taxi market. For the time being, the effects of the 2004 reforms are insufficiently clear.

## 4. **Market failure**

With respect to the reforms in 2000 it can be concluded that the market failures were insufficiently identified. The WP 2000 was mostly aimed at market structure. It was expected that the abolition of entry regulation and geographical restrictions would automatically induce competition. Maximum fare regulation was, therefore, seen as a 'safety valve' and was not intended to greatly influence the average price. In addition, the WP 2000 was intended to induce self regulation, in particular initiatives to increase quality. In practice, self regulation remained limited.

Besides the lack of self regulatory capability of the taxi branch, a number of problems wasn't sufficiently taken account of. In particular, there was not enough attention for the moment a consumer chooses a taxi and the behaviour of supply and demand:

- Which alternatives does a consumer have when choosing a taxi?
- Is the consumer sufficiently able to distinguish and compare different taxis?
- How will taxi drivers compete with each other?

To tackle these problems, current policy is aimed at guaranteeing a reasonable 'no-choice' option: a taxi service with a minimum quality and a reasonable price for customers who do not want or cannot

choose. In addition, policy is aimed at increasing transparency and reducing problems at taxi ranks for consumers who do want to choose themselves.

## **5. Current regulation**

### **5.1 *Entry regulation***

Restrictions on capacity have been abolished in 2000 and 2002. This has increased the number of entrants but not intensified competition in the 'street taxi market' in the larger cities. There are requirements for the operators and taxi drivers license, for example an examination for taxi drivers is compulsory.

### **5.2 *Fare regulation***

Fares are free beneath a maximum. Maximum fare regulation was intended to prevent excessive pricing in a few sporadic instances. However, as a result of the fact that the maximum fare has been frozen since 2003, it seems to have become an upper limit for the average taxi fare.

Fare structure is still regulated. To increase transparency and predictability of the total fare it has recently been decided to replace the current structure consisting of three parts with a structure consisting of two parts: a starting fare (including the first two kilometres) and a fare per kilometre driven (from the third kilometre on). In this new structure the waiting fare per hour is abolished because this made the total fare unpredictable and this unpredictability was an important obstacle for consumers to take a taxi. Implementation is planned for November 1st 2007.

### **5.3 *Quality regulation***

In 2000 quality regulation was almost totally abolished to enhance entry. There were only minimum quality requirements. Current policy acknowledges the lack of self regulatory capabilities of the taxi branch, the lack of quality enhancing initiatives and problems in regard to the position of the consumer. Therefore, policy is now more oriented towards quality regulation, examples are the examination for taxi drivers and the promotion of a quality mark (TX-keur: [www.tx-keur.nl](http://www.tx-keur.nl)). There are no obligations to supply taxi services at certain periods and the obligation to be available 24 hours a day was abolished in 2000. There are of course safety regulations, for example with respect to the number of continues hours a taxi driver is allowed to work.

### **5.4 *Market access rules***

The geographical restrictions on taxi licenses were abolished in 2000. With a taxi license it is possible to pick up clients nation wide. The only exception is Amsterdam Schiphol Airport. Because this is private premises, Schiphol has restricted access. A number of spots are reserved for high-quality taxis. In addition, there is an ordinary taxi rank for which all taxis may qualify. A special Schiphol-license is, however, always required.

### **5.5 *Organisational regulations***

There exists only an obligation to join a complaint and arbitration board, to insure that consumers have a contact point and a means to pursue their complaints. In practice, almost all taxis belong to a dispatch service to be able to pick up clients who call to request a taxi.

## 5.6 Regulatory oversight mechanism(s)

Quality is supervised by the Transport and Water Management Inspectorate. In addition, the police has a role with respect to enforcing regulation (e.g. fares). The covenants to solve local bottlenecks in the four largest cities have increased enforcement and cooperation between the police and the Inspectorate. There are indications that this has led to improvements.

The Dutch Competition Authority (NMa) enforces the Competition Act, also in the taxi market. In the past, taxi service operators have advertised with fixed prices. Because these constitute horizontal price agreements between undertakings, such agreements amount to an infringement of the Competition Act. What's more, taxi service operators usually dominate the local market. The NMa has published policy guidelines for cooperation between independent taxi companies under a single operator.

**Table 1. Taxi market indicators (1999-2003)**

<b>Indicator</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
<b>Entry costs</b>					
License costs	ca. €1130	€635	€635	€503	€545
Drivers pass costs	€39	€39	€39	€40	€45
<b>Dynamics</b>					
Number of companies	3225	3599	5069	4838	4857
Number of vehicles	16548	19291	21737	22737	24771
Number of entrants	-	177	1062	435	453
Number of exits	-	99	542	716	434
<b>Supply diversity</b>					
Supply diversity ('street work')	-	3%	3%	13%	31%
Price diversity	-	17%	16%	14%	20%
<b>Quality</b>					
Average mark consumers	7,4	7,4	7,3	7,5	7,4
Mark on availability (response time)	7,1	7,1	7,2	7,4	7,6
<b>Efficiency</b>					
Number of hours driven per vehicle (in million)	23,4	21,9	23,8	22,8	21,7
Number of kilometres driven per vehicle (in million)	738	774	719	780	824
Kilometres driven/hours driven (index)	100	112	96	108	120
Taxi trips/hours driven(index)	100	107	88	98	89
Passenger kilometres/ Vehicle kilometres (index)	100	120	115	124	107
<b>Occupancy rate</b>					
Occupancy rate 'street work'	41%	46%	49%	44%	44%
Occupancy rate 'contract work'	57%	58%	61%	59%	57%
<b>Taxi consumption</b>					
Number of consumers (in million)	6,6	6,3	5,8	5,9	5,3
Availability of taxis (direct boarding)	33%	32%	37%	34%	38%

<b>Indicator</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>
Availability of taxis (direct boarding) consumers with health reasons.	34%	31%	34%	34%	38%
Average distance taxi trip (in kilometres)	10,2	13,0	13,0	14,2	15,1
Number of taxi trips (in million)	92	92	82	88	76
Number of passenger kilometres (in million)	950	1200	1060	1250	1140
<b><i>Average fare development</i></b>					
Fare development (index)	100	113	115	123	126
Cost price development NEA (index)	100	103	112	119	125
Consumer price index (CBS)	100	102	108	112	114
<b><i>Modal split</i></b>					
Share of taxi in total number of passengers kilometres	0,4%	-	0,5%	-	-
Passengers who used public transport in conjunction with a taxi trip.	37%	37%	33%	27%	26%

Source: TNS NIPO en KPMG BEA (2004) Monitoring en evaluatie deregulering taxivervoer 1999-2003

## NORWAY

### 1. Background on the structure of the Norwegian taxi market

Taxi licensing authority in Norway is allocated to the 19 counties where the respective county governments are assigned the responsibility of managing the taxi market in their respective geographic area.<sup>1</sup> In addition to restricting access to the market through licensing, the taxi prices have been regulated through maximum fares. However, the taxi market was partly deregulated in 2000, when the Norwegian Ministry of Transport and Communications (MTC) exempted the five largest cities in Norway<sup>2</sup> from maximum fare regulation. A 1998 report by the Norwegian Competition Authority (NCA) had suggested similar reforms<sup>3</sup>. Outside these deregulated markets, maximum fares are determined and adjusted annually by the NCA through the Regulation of Maximum Prices for Taxi Transport<sup>4</sup>. Section 10, second paragraph of this regulation also gives the Authority the ability to exempt new markets from maximum fares. Maximum fare regulation will be discussed further in section 2.

Market access rules were maintained in all markets in the 2000 reform. The county governments maintained broad regulatory powers regarding market access, including the ability to define the area within the state where a taxi licensee can operate<sup>5</sup>. The county government also decides the number of dispatch services (DS) in a defined area, and require individual license holders to be member of a DS (often explicitly stating which DS), or alternatively define a primary area where the licensee is responsible for providing service<sup>6</sup>. Mandating affiliation with a DS is assumed to, i) reduce the buyer search cost by operating with the same prices for all affiliated members, ii) efficiently utilize the taxi stock by coordinating trips as to minimize the amount of idle time and non-occupied transport time, as well as iii) promote scale efficiencies from technical equipment and processes needed to run a DS.

County governments also approve the by-laws and rules governing the organization and operation of the DSs, and can with a substantial degree of discretion assign obligations and rights onto DSs, license holders and drivers. These obligations can either be in relation to the public or the DS. Lastly, but perhaps most importantly, the county governments are responsible for determining the number of active taxi

<sup>1</sup> Section 12 in Act on Professional Transport by Motor Vehicle and Vessel (Professional Transport Act) (<http://www.lovdato.no/cgi-wift/wiftldles?doc=/usr/www/lovdato/ltavd1/filer/nl-20020621-045.html&emne=yркеstransportloven&>) and section 3 Regulations on Professional Transport by Motor Vehicle and Vessel (Professional Transport Regulation) (<http://www.lovdato.no/cgi-wift/wiftldles?doc=/usr/www/lovdato/for/sf/sd/sd-20030326-0401.html&emne=yркеstransportforskriften&>)

<sup>2</sup> Oslo, Bergen, Kristiansand, Trondheim, Stavanger, and in the case of the first three cities, a number of surrounding counties

<sup>3</sup> [http://www.konkurransetilsynet.no/iKnowBase/Content/427016/OMLEGGING\\_REGULERING\\_DR OSJE.PDF](http://www.konkurransetilsynet.no/iKnowBase/Content/427016/OMLEGGING_REGULERING_DR OSJE.PDF)

<sup>4</sup> <http://www.lovdato.no/cgi-wift/wiftldles?doc=/usr/www/lovdato/ltavd1/filer/sf-20070309-0265.html&emne=drosje&>

<sup>5</sup> In all cases but two (Buskerud and Oslo/Akershus) it is defined as the entire county.

<sup>6</sup> More common in rural areas where maintaining 24 hour coverage is more difficult

licenses in a defined area with its obvious implications for effective competition. The role of the county governments will be discussed further in section 3.1.

A notable exception to some countries is that in Norway taxi licenses are not tradable, and have to be returned to the state if the owner should decide to leave the market. Accordingly, no rents can be earned in a secondary market from trading licenses. License rents can however accrue due to the entry restrictions, and be i.a. reflected in the form of higher prices. Furthermore, section 20 of the Professional Transport Act gives the licensee the right to hire qualified drivers to drive the taxi on behalf of the license holder.

The overall regulation of the taxi market is the responsibility of the MTC which amongst other things stipulates quality and safety requirements applying to the taxi license holders. These include criminal background check every five years<sup>7</sup>, proving sufficient financial ability<sup>8</sup>, and completion of a theoretical course approved by the MTC. The MTC also determines market access rules *across* county lines. Currently a taxi can, for instance, bring a customer to another county and subsequently pick up a customer on the return trip. A taxi cannot, however, start and end a trip outside the county it is licensed in, unless the taxi is ordered in advance.

Norway faces certain distinct geographic challenges, in particular low population density outside the major cities. As such, it is less likely that effective competition is possible outside cities and other densely populated areas. In rural areas, taxis are an integral part of the public transportation network. Taxi services represent for many the only means of (public) transportation at certain times of the day. Consequently, license holders in rural areas have a 24 hour service obligation. In addition, the percent of trips related to public contracts (transporting patients, students, elderly and disabled people) in rural areas can be as high as 90%, securing services that could otherwise not effectively be provided. Maximum fares and regulated entry in rural areas thus become tools for simultaneously guaranteeing supply of services and providing sufficient income to ensure that the drivers can drive taxi as a fulltime occupation<sup>9</sup>.

## 2. The role of the NCA in regulating maximum fares

The NCA enforces the Norwegian Competition Act of 2004<sup>10</sup>. The primary tools of the Act is section 10 and 11 (equivalent to Article 53 and 54 of the EEA agreement and Article 81 and 82 of the ECC agreement) and merger control under section 16 (similar to Article 57 in the EEA agreement). Additionally, the Authority occasionally use its ability granted in section 9 to point out anti-competitive effects of public measures and proposals. Section 3.1 will describe recent communication between the NCA and the county governments under section 9, letter e<sup>11</sup>.

<sup>7</sup> Criminal offenses that may exclude an applicant from obtaining a medallion include having lost the right to own or operate a business and a conviction of a serious crime including financial crimes.

<sup>8</sup> Bank guarantee requirement of €9 000 for the first license and €5 000 for additional as well as no significant taxes in arrears, confer § 3 in Regulations on Professional Transport by Motor Vehicle and Vessel (Professional Transport Regulation).

<sup>9</sup> Full time job requirement in section 45 of the Professional Transport Act can be relaxed by county government.

<sup>10</sup> [http://www.konkurransetilsynet.no/portal/page?\\_pageid=235.471152&\\_dad=portal&\\_schema=PORTAL&menuid=13066](http://www.konkurransetilsynet.no/portal/page?_pageid=235.471152&_dad=portal&_schema=PORTAL&menuid=13066)

<sup>11</sup> “The Competition Authority shall supervise competition in the various markets, among other things by... (e) calling attention to any restrictive effects on competition of public measures and, where appropriate, submitting proposals aimed at furthering competition and facilitating market access by new competitors.”

The Authority is also delegated the responsibility for adjusting maximum fares through the Regulation of Maximum Prices for Taxi Transport<sup>12</sup>. The fares are normally adjusted annually. Recent efforts by the Authority have been to formalize the process. The NCA has also developed a tool that calculates maximum fare adjustments based on weighted average prices of a defined “average trip” in the deregulated markets, taking account of general and sector specific inflation effects as well as costs born by the industry outside the control of firms (i.e. taxes, pensions etc). As mentioned earlier, the taxi licenses cannot be traded, and return on capital is not explicitly included in the calculation of fare adjustments.

The Authority has primarily identified two potential problems with the fare adjustment process: Using price data from one-sided deregulated markets (free prices but regulated entry) might not give an accurate reflection of socially optimal fares with the result that maximum fares may accordingly be too high or too low. Additionally, the current fare structure and lack of specific trip data makes it challenging to define a representative formula for an average trip. Possible solutions to these challenges will be discussed below.

### **3. The NCAs recent involvement in the taxi market**

#### ***3.1 Letters to county governments expressing concern regarding anti-competitive effects of entry barriers for dispatch services as well as entry regulation related to the number and mobility of licenses***

The Authority sent a letter to the county governments in January 2007 with follow-up in September, in part based on responses from the county governments to the letter sent in January. The following is a summary of the main points resulting from this process.

A substantial number of county governments expressed that they do not find documented need for additional licenses in the market they are responsible for. The county governments have, however, the ability - *not an obligation* - to restrict the number of licenses in the market. In the follow-up letter, the NCA consequently encouraged the state governments to not restrict the number of licenses. This is particularly important in markets with competition between DSs and no maximum fare regulation. It is assumed that the market will correct any potential oversupply of licenses over time, either through falling prices or by forcing ineffective licensees out of the market. Alternatively, an objective and independent analysis of the need for new taxi licenses should be undertaken by the county government, rather than relying exclusively on information concerning the need for new licenses provided by the dispatch services.

The Authority also pointed out the benefits of facilitating entry into the DS market. Having at least two competitive DSs in a given market is one of the prerequisites for exempting a new market from maximum fare regulation. Facilitating entry might include giving DSs from one market the ability to offer its services<sup>13</sup> to license holders in another market. Avoiding minimum limits on the number of affiliated licenses would also ease entry, particularly in combination with increased license mobility between DSs.

Increased mobility of licenses between various DSs would, on the one hand stimulate healthy competition between DSs in attracting the license holders. This would encourage dynamic efficiency, and as such, prevent the cementation of market shares often symptomatic of the taxi markets. Increased mobility could be achieved by for example removing obligatory commitment times for license holders to a particular DS; make new or returned taxi licenses available more frequently; or as mentioned previously,

<sup>12</sup> <http://www.lovddata.no/cgi-wift/wiftldles?doc=/usr/www/lovdata/ltavd1/filer/sf-20070309-0265.html&emne=drosje&>

<sup>13</sup> such as credit management, traffic management, dispatch services, purchasing, and equipment/technical solutions



make more licenses available, preferably not pre-assigned to a particular DS leaving the choice of DS to the license holder.

The Authority also suggested using maximum limits on the number of licenses affiliated to a particular DS. This would be particularly important if county governments decide to regulate entry more actively. This would prevent the situation where one DS obtain a dominant position. If a DS *already* has a dominant position, a situation which actually is common for many incumbents, one solution would be to actively redistribute licenses that are returned from licensees affiliated with the dominant DS. Using maximum limits were recommended instead of limiting license mobility, an approach commonly used in an attempt to prevent large-scale movement of licenses from smaller DSs to the dominant DS. Maximum limits would preserve the mobility of licenses between smaller DSs which would otherwise be lost through limiting license mobility.

### **3.2 *Comments on the revision of taxi regulations concerning the structure of taxi ranks***

The Authority sent a letter to Oslo county in August 2007 with comments on their proposed changes in the taxi regulations for Oslo and Akershus licensing district.

According to the proposed regulations all taxis shall have the right to unrestricted access to taxi ranks if there are available spaces in the rank.

A problem with the above mentioned rule is that it does not open for customized structure of taxi ranks. The taxi rank on Oslo Airport is an example of a customized structured rank. This taxi rank is operated by Taxidepoet AS, and is based on a system where taxis from all the represented dispatch service companies are able to be represented in the taxi rank at all times. This is done by compelling the taxis to drive through a depot before they can go to the actual taxi rank. In the depot taxis are registered and given a place in the taxi rank. A computer system ensures that the taxi rank at all times consists of a balanced representation from all the represented dispatch service companies, and thus prevent the congestion of taxis from the biggest dispatch service. This system ensures that the costumers in real terms have a free choice between different dispatch services when they are in demand of a taxi.

On this background the Authority advised Oslo county to shape taxi regulations in such a manner that customized systems as mentioned above could be implemented without conflict with regulations.

### **3.3 *Improving access to useful and comparable price information***

In addition to entry barriers, as described above, the NCA finds that perhaps the biggest obstacle to effective competition in the taxi market is that the price structure is complex and not easily available to the consumer when making the transaction. Good and easily available information concerning prices is an issue currently being addressed by a working group consisting of members from the Norwegian Taxi Association, the Consumer Council, the Consumer Ombudsman and the Competition Authority. The working group will consider alternative solutions for improving access to useful and comparable price information at the taxi ranks and inside/outside the taxi.

The work is primarily aimed at developing a reference price based on a defined average trip<sup>14</sup> which will be displayed inside and outside the taxi as well as comparable reference prices for various dispatch companies displayed at the taxi ranks. In combination with informing customers about the principle that taxis freely can be chosen out of line at the rank, the working group anticipates that this will induce dispatch companies to compete harder on fares. Nonetheless, the NCA is also aware that limited entry of

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<sup>14</sup> Start fare plus a combination of distance and time fare.

new licenses and dispatch services, in combination with limited mobility of existing licenses, lessens the incentives for price competition because smaller dispatch services will not have incentives to lower price because they will quickly meet capacity constraints. As such, this process is contingent upon the response of county governments to the issues as described above. Given the broad mandate of the county governments in regulating their respective taxi markets, it was also mentioned in the follow-up letter sent in September that the process could be facilitated by requiring useful and comparable price information from the dispatch services and at public taxi ranks.

### **3.4 Intervention in the merger between Trøndertaxi AS and Sør-Trøndelag Taxi AS<sup>15</sup>**

The Authority intervened in this proposed merger between two DS service companies in February 2007 on the grounds that it would significantly lessen competition in the public contract bidding market. In this particular case, the primary concern was contracts for transporting patients to and from hospitals, but similar problems could arise for contracts transporting students, elderly and disabled persons.

In Norway, the right to taxi transport services is a law-based right provided the doctor determines that a patient is too sick to use regular public transportation, yet not in need of an ambulance. The NCA found that an increase in the fares on this type of contract would not significantly reduce the total number of patients requiring this service, i.e. a situation with inelastic demand. As such, it was not likely that a price increase would lead to substantial deadweight loss. However, a key socioeconomic loss predicted as a result of the proposed merger was an increase in the transported patients' opportunity cost. This occurred because the hospital needed to transport a fixed amount of patients, but at a higher cost. Rationalization will result in more patients transported in the same taxi. Ultimately this would both reduce the quality of the service for the individual patient and increase waiting times with the associated costs.

The decision was appealed to the Ministry of Government Administration and Reform (FAD), which upheld the NCA's decision on all counts.

## **4. Future challenges in the Norwegian taxi market**

As seen in section 3, the taxi market has recently received a great deal of attention from the NCA. There are, however, a number of challenges ahead, and the following is a summary of some of the key issues currently on the agenda.

### **4.1 Evaluate candidate markets for maximum fare exemption**

Section 10 of the Regulation of Maximum Fares for Taxi Transport states that:

*“The competition Authority can make exceptions to this regulation:*

*a) if there in an area are two or more dispatch services and the Competition Authority finds that the conditions otherwise are conducive to sufficient competition...”*

In addition to the five markets exempted from maximum fares in 2000, the NCA exempted yet another market in 2004<sup>16</sup>. Furthermore, the NCA currently has two applications under consideration and expect to conclude these cases during the fall of 2007 or early 2008.

<sup>15</sup> [http://www.konkurransetilsynet.no/iKnowBase/Content/425677/TRONDERTAXI%20AS\\_SOR-TRONDELAG%20TAXI%20AS\\_V2007-1.PDF](http://www.konkurransetilsynet.no/iKnowBase/Content/425677/TRONDERTAXI%20AS_SOR-TRONDELAG%20TAXI%20AS_V2007-1.PDF)

<sup>16</sup> Nedre Buskerud containing 9 municipalities around the city of Drammen

The ability to gradually liberalize new markets means that the NCA carefully can consider a number of factors before making a decision. For example, what are the geographic characteristics (population size and density, geographic size and spillover into/interaction with other markets) of the market? Are there a minimum number of two competitive and non-cooperating DSs present in the area? Which market access rules exist in the area related to DSs and licenses? Are taxi licenses mobile? Is there available price information in or outside taxis and the ranks? How important are public sector contracts in this region?

As such, the NCA is in an excellent position to gradually introduce competition in markets that display the appropriate features for achieving effective competition.

#### **4.2 Evaluate fare structure - 'single system calculation' vs. 'double system calculation'**

It is difficult to achieve price competition when good price information is either absent or hard to understand or compile. Norway currently uses taximeters based on the single system calculation method, which entails a fare calculation based on a time tariff below a cross-over speed and a distance tariff above a cross-over speed. Until now, this rather complex fare structure has contributed to making it extremely difficult for the buyer to make informed choices because it involves both a number of relatively complex calculations as well as making informed guesses about the time traveled above and below the cross-over speed.

In Norway, there is currently a debate about whether or not to change from a single system calculation to a double system calculation where fare calculations will be based on simultaneous application of a time tariff and a distance tariff over the whole trip. This matter will be discussed at the annual national meeting of the Norwegian Taxi Association in the middle of September this year.

There are at least two advantages using the double system calculation method. Firstly, it will be easier to compare prices between dispatching services at taxi ranks. The use of reference prices for an average trip will be more informative because it removes the uncertainty of the time traveled above or below the cross-over speed. Secondly, the charges will be more easily verifiable after the fact as it is possible to both measure the distance and length of time on any given trip.

There are however a number of challenges with adapting the double system calculation model. The most obvious challenge is the costs and potential technical obstacles when recalibrating existing taximeters. Implementing the model might also require a regulatory change. Determining the appropriate regulation to amend requires careful considerations. However, the most likely point of departures could be the Norwegian Metrology Services

EEA directive 2004/22 EØF for measuring instruments (MID), or the NCAs Regulation of Maximum Prices for Taxi Transport.

A second challenge would be that, just as the DSs in the deregulated markets would have to do so for their license holders, the NCA would have to adjust/recalibrate the maximum fares per kilometer and per hour to reflect the double system calculation in the Regulation of Maximum Fares for Taxis. The NCA should optimally consider both the license holders' income and consumer welfare in this process.

It is possible that a change in fare structure may also have distributional effects due to higher fares for trips that in large part drive *under* the current cross-over speed. This form of "rush hour pricing" may be appropriate under economic theory, but it is uncertain what the political climate is on the issue. The most affected type of travels would likely be business travelers and public contract trips (elderly, students, patients, disabled persons) which use taxis in the morning and the afternoons.

Additionally, one may also see greater differentiation in tariffs for time vs. distance, for example during evenings and weekends. This trend is already visible in the larger cities, with especially weekend night tariffs on average exceeding day tariffs more than in markets with maximum fares both nationally and internationally<sup>17</sup>. In contrast to the “rush hour” effect described above, this will not be due to heavy traffic but rather due to the high cost of time which only can be recovered through a higher distance fare.

Finally, transitional issues may arise due to existing public sector contracts that are negotiated on the basis of the single system calculation model. It is likely that this would have to be solved through negotiations between the public sector and the dispatch services currently holding the contracts while new contracts would incorporate the new method.

### **4.3 Public contracts bidding market**

It is important for the NCA to monitor and review possible effects on competition due to recent and ongoing changes from traditional negotiations to tendering/bid processes in the public contract sub-market for taxi services. This is likely to effect for example transportation of patients, elderly, students and disabled people. Potential anti-competitive effects in the market for transportation of patients were the main reason for intervening in the merger discussed in section 3.3. However, in addition to merging in an effort to obtain market power and lessen competition, the NCA must also be aware of the potential problems in this sub-market due to behavior that may be in conflict with section 10 and 11 of the Competition Act (Article 53 and 54 of EEA agreement).

Historically the Norwegian taxi market was defined by legal monopolies with little or no competition across county lines. It has also been common, particularly in rural areas, for taxi license holders to cooperate in various forms in order to ensure adequate 24 hour coverage. Therefore, it has proven rather difficult for purchasing offices at the public institutions tendering transportation contracts to conduct efficient service tendering due to lack of competitive bidding. In many cases, license holders or dispatching services representing a group of licensees choose not to make bids outside their “home market”. This may be due to genuine capacity constraints as a result of restrictive entry regulation, but sometimes also for other reasons.

Achieving efficient bid markets is further troubled by the fact that in a number of counties, various local dispatch services have created umbrella organizations, that (perhaps efficiently) offer a number of services to the owners (the taxi licensees) such as credit card processing, group discounts on purchasing equipment, dispatching trips as well as traffic management services. However, a tendency for these umbrella organizations has also been to bid on public contracts in all or most of a whole county on behalf of all or most of the dispatch service companies in a market. This has been achieved either through exclusivity in contracts with licensees, or through voluntary agreements. Dispatch services are through regulation<sup>18</sup> exempted from the prohibition of anti-competitive agreements<sup>19</sup> when it comes to mutual bids on behalf of license holders connected to the dispatch service in question. However, the regulation does not exempt agreements between dispatch services. The Norwegian Competition Authority has clearly stated that the above mentioned umbrella organizations are to be regarded as agreements between dispatch services, and thus are not exempted from the general prohibition of anti-competitive agreements in the Norwegian Competition Act § 10.

<sup>17</sup> See Bekken for International Road Transport Union (IRU) ”Taxi Regulation in Europe” p xiii

<sup>18</sup> [http://www.lovdato.no/cgi-wift/wiftldles?doc=/usr/www/lovdato/for/sf/fa/fa-20021018-1165.html&emne=forskrift+om+dispensasjon+fra+konkurranselov\\*&&](http://www.lovdato.no/cgi-wift/wiftldles?doc=/usr/www/lovdato/for/sf/fa/fa-20021018-1165.html&emne=forskrift+om+dispensasjon+fra+konkurranselov*&&)

<sup>19</sup> Norwegian Competition Act § 10

Effectively, this has created regional monopolies, and due to limited or no actual (or even potential) competition caused by entry regulations and no close substitutes, this puts the dispatch services in a strong bargaining position relative to the buyer, which in many cases are restricted by law from reducing its purchases of taxi services.

This has been a recurring issue for a number of years. There is currently a case dealing with this problem under consideration by the NCA. There have been at least two attempts of clarifying the matter in the past (2004-05), but the NCA finds that it may be necessary to further illuminate the boundaries of section 10 in the future.

Another possible challenge in the future is that as long the entry regulation prevails, the NCA will likely face a number of local or regional taxi markets with one large (usually) incumbent dispatch service. As such, the NCA will be required to monitor each market carefully in order to detect behavior that will constitute a breach of section 11 of the Competition Act. This may include predatory pricing in bidding markets (to squeeze out smaller dispatch services which may depend on public contracts to survive). The more protected the incumbent is in terms of competition from other dispatch services, and the more restricted entry and mobility of licenses, the more likely the abuse of a dominant position is to occur.

#### **4.4 *New forms of organization***

The taxi licensees are traditionally organized as independent business units. Affiliated license holders normally own their DS with occasional part ownership by the local branch of the Norwegian Taxi Association. However, there are indications in the market that some license holders increasingly organize themselves as corporations holding more than one license, and effectively acting as its own dispatch service. This form of organization can potentially affect the mobility of licenses, the obligations and rights of DSs, the seniority-based allocation of licenses etc. A priori, it is difficult to assess the long term implications of this trend, but the NCA follows it closely as it has the potential to create dynamic effects in a rather static market. It is also assumed that this form of organization improves the incentives for efficient operation of the dispatch service *and* the taxi stock.

#### **4.5 *Improve access to useful and comparable price information outside taxi ranks***

Trips initiated on the street or from taxi ranks constitute approximately 1/3 of trips in the spot market. As discussed earlier, the NCA is currently working with the Consumer Agencies on improving access to comparable information from various dispatching companies on dispatching sites and in taxis. This means that there is still a challenge to providing useful and comparable price information to the remaining 2/3 of buyers who pre-order their taxis to pick up at a defined location. It is clear that improved information at taxi ranks and in cars will reduce overall information costs, because a buyer can use information obtained at trips made from taxi ranks in future transactions.

The NCA also expects that technological development in this area can potentially improve access to comparable information. The NCA has in particular considered the use of a web based taxi fare calculator which, if linked to a route calculation software program and a database containing fares for various DSs, could give buyers trip specific price estimates from various DSs before ordering a trip from home. Technologically, the same could actually be achieved through a SMS-based service on cellular phones, a service which could provide taxi customers with the basis for informed decision at or outside the taxi rank.

## SWEDEN<sup>1</sup>

### Summary:

- The Swedish taxicab market was deregulated in 1990, thus Sweden has plenty of experience of a taxi market exposed to competition.
- Sweden has experienced overall positive effects of the deregulation. The main positive effect is the increased competition in the taxi market and the following increased accessibility for the customers. Also, the deregulation has made purchasing in competition possible for public purchasers, companies and authorities.
- The effect of the deregulation on prices is difficult to estimate. There are only statistics over private journeys, which account for about a fourth of the Swedish taxi market turnover. Prices for publicly paid transports and business customers are negotiated.
- The preparations before the deregulation were not sufficient and unexpected problems arose. In order to overcome these problems more stringent rules were introduced over the years.

### 1. Introduction

In 1990 the Swedish taxicab industry was deregulated in order to increase competition in the taxi market. The competition authorities were driving forces behind the deregulation. The regulations restricted competition in the market and therefore contributed to other costs and inefficiencies, borne by taxi passengers. The main elements of the deregulation in Sweden were free price-setting and freedom of establishment. Regarding freedom of establishment there are still some requirements that have to be met. However, these requirements are not directed to control the market structure but to make sure that taxi drivers have basic qualifications and are suitable.

Section 2 will explain the regulatory regime in Sweden created in 1990 and the increased quality regulations made over the following years to overcome perceived problems. In section 3 a brief summary of the Swedish taxi market structure will be presented. In section 4 the outcome of the liberalization will be handled. In section 5 a couple of remaining problems will be addressed. Finally, in the last section some conclusions will be presented.

### 2. The regulatory regime

#### 2.1 *The deregulation in 1990*

In July 1990 the Swedish taxicab industry was deregulated. Before the deregulation entry was subjected to a means test and the fare structure was regulated – both these regulations heavily restricted competition in the market.

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<sup>1</sup> The views presented in this paper are the Swedish Competition Authority's.

The deregulation was done in one step with a removal of barriers controlling entry (relieving the county administrative boards of their former task of estimating demand for taxi services in each operating area) and removal of the fare controls. At the same time, control of an applicant's suitability became more rigorous and encompassed trade skills as well as personal and economic suitability. The requirement for all taxicabs to belong to a dispatch service (i.e. booking office) was abandoned and geographically restricted operating areas were abolished. Finally, the strictly regulated operating hours were removed.

## **2.2 *Recent regulatory developments***

### *2.2.1 Stricter rules*

Some rules were later considered not strict enough and proposals of a more stringent set of rules have been made over the years. In 1995 a new licensing system was introduced to control the suitability of drivers; e.g. whether the applicant has been convicted of any crimes, especially crimes involving violence. The most recent regulatory development in Swedish transport policy was lowering the burden of proof for illegal professional traffic.

### *2.2.2 Exemption to the competition rules*

In 1995 a block exemption for certain co-operation in the taxi sector was implemented in Sweden. Before that the Swedish Competition Authority (SCA) had granted individual exemptions in great many cases for co-operation in sparsely populated areas. The new regulation had three objectives; first to uphold competition as far as possible; second, to guarantee access to taxi services in all parts of the country; third, to ensure stability and clear rules for the taxi industry. The block exemption means that some forms of co-operation between operators in a central dispatch service fall outside the scope of the general prohibition against anti-competitive co-operation. For co-operation to be permitted it shall not cover more than a maximum of 30 vehicles and the co-operating companies can account for a maximum of 35 percent of the relevant market in question. The special block exemption for certain taxi co-operation was recently prolonged to 2010 inclusive.

### *2.2.3 Special rules at terminals*

After the deregulation Sweden experienced problems at airports and larger railroad stations (e.g. overcharging and lack of taxi parking space resulting in long queues and disputes between taxi operators). Fixed prices for a trip from the airport to the city is a common way to overcome the difficulties with price comparison. In Sweden fixed prices between the airport and the city is commonly used. Also, solutions at the larger terminals in Sweden often involve exclusive contracts; the airport operating authority make special agreements with a number of dispatch services. Usually the terminals' demands in the agreements are comparatively stern which raises the level of service and the overall quality. The agreements improve order and reduce risk for customers to be overcharged or exposed to harassment or other pushy behaviour by drivers. The contract conditions also lead to an increased internal control within the dispatch services. There are different ways of handling the issues depending on the specific characters of terminals, some kind of special rules seem however necessary. Site-based rules (e.g. exclusive contracts at airport terminals) to deal with local information problems do not have the widespread repercussions that nationwide regulations would have.

## **3. Market structure**

The taxi market in Sweden consists of a large number of local taxi markets with very different conditions. The market size varies greatly between urban and sparsely populated areas. In addition, very different customer categories are dominant in different parts of the country. Publicly paid rides (transport services for elderly, disabled and school children) account for more than half of the taxi market turnover in

Sweden. Transports of private persons account for less than a fourth. Finally business customers, who constitute a growing part of the taxi market, account for a fifth. However, there is a large variation within the country. In some sparsely populated areas the local authorities account for up to 90 % of taxi market turnover.

#### **4. Outcome of liberalization**

##### **4.1 *The prices***

###### **4.1.1. *Price information***

Since the deregulation taxi companies are free to set their fares but are required to inform customers about the fare prior to trips. There are guidelines and agreements on how prices should be presented to customers both inside and outside the taxicab. Taxicabs must also be equipped with receipt writing meters. There are however still some problems with price comparison and information asymmetry, see section 5.

###### **4.1.2 *Price development after the deregulation***

Available statistics indicates that the prices of private taxi journeys have increased faster than CPI since the deregulation. According to the Confederation of Swedish Enterprise there was a need to increase prices to gain profitability even prior to the deregulation. Fares, which were previously regulated to be uniform on a national basis, also developed regional differences after the deregulation. The total effect of deregulation on prices is however not easy to estimate since there are no statistics over prices for publicly paid rides, and these account for more than a half of the taxi market turnover. The lack of statistics is due to the fact that the prices for publicly funded transports are negotiated. One of the reasons behind the deregulation was that the non-existing price competition made it difficult for municipalities and county councils to purchase transports to reasonable prices. Before the deregulation there was no possibility to get a high volume discount, now there is bargaining room for municipalities and county councils. Thus purchasers have satisfactory opportunities to lower their costs through the bidding procedure. The deregulation also has made purchasing in competition possible for companies and authorities.

Furthermore, prices before and after the deregulation are not directly comparable. Before the deregulation the waiting times were long, especially in the larger cities. The costs could be kept low since the taxicabs had a higher occupancy rate but customers, especially in more populated areas, complained about the long waiting times. Comparisons of prices should take this improvement in quality into account.

##### **4.2 *Greater accessibility***

The deregulation of the taxi market has led to a greater taxi fleet and with that a greater accessibility for the customers, reducing waiting times significantly. Before the deregulation taxicabs were a scarce resource, and it was difficult to get hold of a taxi when needed. Now more taxis are available any given hour of the day, which makes the service more attractive. Also, a lot of people will only consider using a taxi if they are in a hurry or are travelling to or from the airport or a special event. If service levels for these locations are too low or waiting times too long, taxis will no longer be an attractive option, and passengers will look elsewhere or drive themselves.

##### **4.3 *Variation in the supply***

Another result of the deregulation is a broader variety of different types of cars. Small cars in particular, were not seen before the reform. They may be less comfortable, but the price of the taxi journey is also cheaper. Some dispatch services create a distinctive image for themselves, e.g. that they drive environmentally friendly cars. Also there is a larger extent of specialization than before; some aim mainly



for business clients, other for publicly paid transport while others (mainly operators not affiliated to a dispatch service) are mostly referred to private customers.

#### **4.4 *Dispatch services***

Dispatch services with several connected taxi companies have become an important component of the Swedish taxi market. After the deregulation a number of competing dispatch services have been established, mainly in the metropolitan regions and other major urban areas. Smaller cities often lack the volume of customers necessary for having more than one. After the deregulation the operators no longer have to be members of dispatch services. Today about 30 % of the operators in Sweden are so called free-wheelers, i.e. they do not belong to a dispatch service. Most of them operate in the larger cities. Affiliation with a dispatch service is often a condition to obtain contracts on publicly paid rides and to be allowed to pick up customers at terminals. Therefore affiliation is, in many cases, necessary for a taxi company in the countryside to maintain efficiency. According to an official report from 1999 the trend within the taxi trade run towards an increasing number of operators being members of a dispatch service.

### **5. Some remaining problems and issues**

#### **5.1 *Illegal professional traffic:***

The main problems within the taxi market concern the existence of incomes not accounted for, black labour and the twisting of the competitive conditions which is a result of these behaviours. These problems are costly for the trade as well as for the customers and the society as a whole. Illegal professional traffic and tax evasion were however problems even prior to the deregulation, but they were not given a lot of attention in the medias until after the deregulation. Often these problems are unjustly referred to the deregulation. It is also worth noticing that problems with black labour and tax evasion are not at all unique for the taxi sector.

#### **5.2 *Price information and information-asymmetry***

Another area of problem relates to price information and the information-asymmetry in the market. Especially in the hailed-taxi market the customers can be uncertain about the terms offered by any particular taxicab, and about alternative offers. It can be difficult for the customer to calculate the fare for a planned trip in advance. However, improvements regarding price information and transparency have been made over the years. A transparent price-setting facilitates price comparisons and therefore promotes competition.

#### **5.3. *Co-operation between taxi companies***

##### **5.3.1 *Co-operation in dispatch services***

Co-operation in dispatch services may in some cases (probably mainly in sparsely populated areas) have gone too far.

##### **5.3.2 *Competition law cases***

In 2004 the Swedish Competition Authority (SCA) fined two taxi companies for illegal cooperation and exclusion of a new competitor in the local market. The evidence consisted of notes and letter, which stated that the parties had agreed to exclude the new competitor. Furthermore, one of the taxi companies admitted the action. During court proceedings, however, the parties denied that any agreement had been concluded and provided explanations for the earlier correspondence in notes and letters. The Stockholm District Court found that the parties had not agreed to the illegal behaviour. Neither did the SCA show that

the taxi companies had an obvious purpose of restricting competition. The Stockholm District Court therefore dismissed the SCA's claim.

## **6. Conclusions**

The deregulation of the Swedish taxi market has benefited customers in many ways, mainly due to the increased competition within the trade. However, the deregulation also has had some negative effects. Regarding passenger security there have always been a licensing system for taxi drivers, but the rules have been made more stringent over the years.

When opening the taxi market for competition by deregulation there is a need of resources to authorities to control and supervise the deregulated market. Also, deregulation at terminals requires great care and the authorities need to pay attention to ensuring that price competition can be developed at the terminals. Sweden would also like to emphasize the importance of a transparent price setting to facilitate price comparisons.

Finally, we would like to underline the importance of planning and preparing for a deregulation. The Swedish main conclusion is that a deregulation of fares and entry needs to be coupled with quality regulations and certain safe guards to protect customers.

The Swedish overall experience of the deregulation of the taxi market is positive.



## SWITZERLAND

### Introduction

In Switzerland, there are three levels of regulation: the federal, the cantonal and the municipal level. The regulation of taxi services in Switzerland is a business of the cantons or ultimately the local municipalities. This leads to a diversity of rules and regulations. There is no law or regulation on the national level dealing specifically with taxis. In order to get an overview of the regulation of taxi services in Switzerland, this paper illustrates the policies in force in Switzerland by means of four selected examples, the cities of Zurich, Bern, Basel and Lausanne. They are among the largest cities in Switzerland and are characterized by diverse regulation regimes.

To begin with, an overview of the differences in the local policies will be provided: Zurich's regime relies on fixed prices, whereas the city of Berne lets taxi service providers decide freely on their prices. Basel's taxi regulation authority fixes the maximum fares that can be applied, whereas the regulator of the municipality of Lausanne determines also the maximum number of available licences, besides fixing prices at a given level.

In most municipalities with rather strict rules (Zurich, Basel, Lausanne) the local governments decide on the regulation. The municipalities establish expert commissions that can address (mainly) non-binding recommendations to cantonal and communal authorities. These commissions comprise representatives of different interest groups such as taxi operators, politicians, local police representatives and other stakeholders. One exception is the city of Basel where the commission has a right to stipulate binding recommendations when it comes to the approval of licence applications. This procedure does contain a certain conflict of interests. In the city of Berne there doesn't exist a commission for the taxi business because the deregulated market renders it unnecessary.

This paper is organised as follows: Chapter 1 outlines the prevailing market failures whereon in chapters 2-4 the diverse regulation characteristics will be discussed. Chapter 5 describes the actions of the competition authorities against anticompetitive practices. Chapter 6 discusses the market access restrictions and the corresponding reforms.

### 1. Market Failure

Municipalities characterised by a rather restrictive regime such as Zurich, Basel, and Lausanne seem to fear that complete deregulation would lead to an non-transparent and unsatisfactory service. They put considerable weight on information asymmetries between suppliers and customers. The main underlying consideration is the following: if there is a deregulated taxi market, the operators fight each other by lowering the prices at the expense of lower service quality. This would be a disadvantage for the tourism industry and the perceived image of the city or the country. In a short survey we made, the taxi regulation office of the city of Zurich casts its doubts on unregulated taxi fares – it fears a non-transparent and consumer unfriendly 'bazaar'. In the municipality of Lausanne an additional consideration is of importance: As the city determines the maximum number of taxis allowed, imposed fares are required because of the market power of taxi operators holding a licence.

## **2. Entry Regulations**

In the municipalities described here, taxi “medaillons” reflecting a scarcity rent do not exist. The issued licences for taxi drivers or operators are neither tradable nor transferable. A countrywide requirement is passing a written and practical test when applying for a taxi driving licence.

### **2.1 Requirements for taxi operators**

#### **2.1.1 Zurich**

To obtain a licence a clean criminal record, 3 years of working experience in the taxi business and a head office located in the city are required. No person is allowed to operate more than 10% of the total number of taxis. The number of licences is not limited by the commissioner but the authorities hold the right to restrict the issuing of licences. The licences are personal, not tradable and expire after 3 years. The licence holder has to pay a monthly fee resulting in yearly costs of around EUR 500.

#### **2.1.2 Berne**

In the city of Berne an applicant needs a clean criminal record, 1500 hours of proven working experience as taxi driver and must have his domicile in the city of Berne or the municipalities to which the legislation extends. The commission issues only one type of licence without setting a maximum number. The yearly costs of a licence amount to approximately EUR 500. The licence is not tradable. The city of Berne is the most liberal example described in this paper.

#### **2.1.3 Basel**

The city of Basel issues two different types of licences. Type A licences allow a taxi operator to use the public taxi ranks, whereas type B holders are excluded from their usage. The requirements for both types of licences are identical but in order to obtain a licence of type A an operator must run or be part of a dispatch centre that administrates the service. These dispatch services guarantee a satisfactory 24 hour service that small taxis companies may not provide. There are several of them. The employees or the independent members of these dispatch organisations must be part of a collective agreement between the municipal authorities and the taxi service providers regarding the conditions of employment. Work contracts of an operator’s employees must conform with the negotiated collective agreement.

An applicant needs a clean criminal record, must be domiciled in Switzerland, must have worked in the taxi business during the preceding 3 years as his main profession, needs at least one adequate vehicle and finally must be able to provide private parking space for the taxi fleet. Neither the number of issued licences nor their temporal validity are restricted (for both types). There is no trade of licences since they are personal and not transferable. As in the other cities the yearly fees amount to approximately EUR 500 for concession A, and EUR 200 for licence type B respectively.

#### **2.1.4 Lausanne**

The city of Lausanne and affiliated municipalities issue three types of licences. Type A licences provide access rights to public taxi ranks, B licences entitle the holder of operating on a call-for-service basis, whereas licences of type C cover limousine and chauffeur services. Moreover, and similar to the three other towns, diverse administrative documents such as a clean criminal record are required in order to obtain either an authorization to operate a taxi service or to run a taxi call centre.

## **2.2 Requirements for taxi drivers**

### **2.2.1 Zurich, Berne, Basel, Lausanne**

In all the four cities a taxi driver must pass a series of tests consisting of a theoretical part, a practical part and a language exam. As a result of the federalist system, the criteria and the nature of the tests vary across cantons and municipalities.

## **3. Fare Regulations**

Tariff schemes in the Swiss taxi market range from fixed prices determined by an authority to free market prices.

### **3.1 Zurich**

The city council decides on binding fares after consultation of a taxi expert commission consisting of different interest groups. Changes can be made based on the consumer price index. Actual fares can be adjusted by the council if the consumer price index rises or falls more than 5%. The taxi commission fears that a non-transparent and therefore consumer unfriendly situation would arise if the price setting was abolished.

### **3.2 Berne**

The city of Berne adopts a liberal policy and lets the taxi operators or drivers set their fares individually. The experience with this regime is somewhat mixed. After deregulating the pricing decision, there evolved no real competition and operators seemed to coordinate their prices.<sup>1</sup> The result was that the prices didn't fall but rather stayed approximately at the same level. Nevertheless, some price dispersion can nowadays be observed. The municipal council is entitled to interfere and set binding prices if necessary.

### **3.3 Basel**

The canton sets the tariff schemes after consultation of a taxi expert commission consisting of different interest groups. But other than the city of Zurich, Basel only sets maximum fares – the operators can set prices below the price cap.

### **3.4 Lausanne**

The tariffs by holders of a type A licence must be approved by a municipal committee. Holders of licences of type B and C do not have to comply with any rules regarding prices. Albeit the number of taxis is restricted, the existence of type B and C taxi licences slightly reduces the problem of market power by the taxi operators.

## **4. Quality Regulations**

All the covered cities prohibit active advertising of the service by driving around without having an effective assignment. An incentive to provide a better service quality is the free choice of the taxi in the public ranks, applied by all four municipalities.

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<sup>1</sup> S. FUHRER, Im Schweizer Taxiwesen gehts drunter und drüber, in: Touring nr. 12 (2004), pp. 4-5.

#### **4.1 Zurich**

There is a law that determines the maximum hours a driver is allowed to work and how much rest is needed during a working day. The compliance with this rule is supervised by the police. The city created together with the office for tourism a quality label that taxi drivers can mark their cars with if they meet extra criteria other than the criteria required by law. To let passengers choose freely which vehicle they prefer in a taxi rank is a further incentive to provide good visual quality as well as a satisfactory overall service quality. The municipality prescribes the technical condition and features of taxis as well as the appearance, i.e. the lettering of the taxis. The taxi drivers must present their car to the authorities for additional control procedures on a regular basis.

#### **4.2 Berne**

The city of Berne requires cars to be in a satisfactory condition. Fares must be clearly visible on the taxis. Besides the regular controls applying for all vehicles by the Driver & Vehicle Licensing Agency taxi drivers must present their taxi for extra control procedures on a regular basis.

#### **4.3 Basel**

The city of Basel obliges operators holding an A licence to provide a 24h service (see recital 9) and there is an article in the legislation that says how the taxi drivers appearance has to be like. Furthermore, the phone number of the taxi company and the respective number of its car must be visibly placed on the vehicle.

#### **4.4 Lausanne**

The measures to guarantee a good service quality are very similar to the ones in the cities mentioned above. An additional requirement is the annual inspection of the vehicles and the prescription of a uniform colour of the cars.

### **5. Actions against anticompetitive practices**

The competition agencies and the price surveillant have dealt with the taxi industry on various occasions (i.e. RPW 1989/1a, p. 33 ff; RPW 1989 1b, p. 23 f.; RPW 1991/1b, p. 10). The examined cases concerned mainly the taxi fares (in Zurich, Berne and Lucerne), but also the right reserved to Zurich Airport taxis of taking customers to the city from the Airport (see recital 30). The taxi regulation in force in the region of Lausanne was also examined.

In many cases there were legal prescriptions in place excluding the application of the LCart, especially tariff schemes released by cantons or local municipalities. Such prescriptions, which may severely restrict competition, take precedence over the provisions of the LCart, provided the canton or the local municipality can establish that there is a need for regulations in a certain sector. The price surveillant, who is in charge of examining the adequacy of administered prices, doesn't have an authority to pass orders but can release and make public recommendations to authorities fixing tariffs. As a consequence, concerning taxi services the competition authorities have so far only released recommendations.

Generally, the Comco advised authorities to deregulate the taxi market as much as possible, taking into consideration identified market failures. For example the Comco did acknowledge the necessity of a licence-system in the region of Lausanne to prevent an overexploitation of the public space. It advised the inter-communal taxi-service to mitigate the competitive advantage of the owners of an A-licence by allowing the owners of a B-licence to use certain public taxi ranks, i.e. in front of the station. Furthermore,

in order to enable new operators to enter the market, the Comco recommended to reassign the A-licences every year. So far, A-licences were de facto assigned for quasi a lifetime.

Whether entry restrictions and fare regulations can resolve market failure cannot definitely be assessed. However, the experience of those municipalities having adopted a more liberal approach, i.e. Berne, does not support the rationale for the rules in more restrictive municipalities (see recital 5). The city of Berne, where taxi operators are free to set their price schemes, provides no evidence for Zurich's fear of a non-transparent and consumer unfriendly 'bazaar'. On the contrary, commissioners in Berne argue that prescribed fares protect drivers offering bad service quality. Comparing Swiss towns, no point can be made that broad regulations are necessary in the taxi market.

## **6. Market Access Rules & Reforms and effects**

Since 1995, the IMA is in force in Switzerland. The main objective of this act is to ensure a free and functioning market in Switzerland by eliminating market access restrictions introduced by cantons and municipalities. The act was revised in 2005.

The enforcement mechanisms of the original 1995 version of the IMA were relatively weak. Three main reasons for its failure were identified. First, the case law of the Federal Court gave the principle of federalism precedence over the internal market principle. According to the reading by the Federal Court, only the cross border provision of services was covered by the law, entitlements could get lost when the legal residence was changed. Second, Article 3 of the original act contained a broad set of conditions under which cantons could restrict access to the market. Third, the length and cost of the procedure of a legal action, combined with uncertainty about the outcome refrained potential plaintiffs from suing.

The 2005 reform should lower cantonal and communal barriers to the creation of a proper internal market. The revised act contains a more restrictive formulation of the exceptions and extends the freedom of access to commercial establishment. Another aim of the reformed act is to ensure that inter-cantonal recognition procedures for certificates of professional qualification comply with EU rules on the free movement of persons. Furthermore, the role of the Comco was strengthened, particularly by enabling it to challenge administrative decisions in court, contrary to the preceding regulation according to which the commission could only publish non binding recommendations to the communal authorities.

On the practical level, the new law showed more effectiveness than the previous version of the IMA, also in the taxi market. Beforehand in Zurich for example, city taxis were only allowed to bring passengers to the Airport but could not take passengers back to the city. This service could exclusively be offered by Airport taxis, which in turn were not allowed to bring passengers back to the Airport. This unfavourable regime was turned over by the new legislation and either type of taxi can take passengers either way. The Comco will examine if it has to release recommendations relating to the inter-cantonal transport service to and from Airports in other cantons as well, considering also fees which have to be paid by operators from an other canton, and not only abolishing the prohibition to "reload" passengers. The taxi business is one positive example for the effectiveness of the reformed IMA.

The municipalities could try to stretch the conditions admitting exceptions to free market access. For example, they could declare public taxi ranks as the city's property and exclude taxis from other municipalities from their usage by deterring tariffs. Another example are residency requirements for obtaining an operator's licence (a requirement which presumably would not stand the test of the IMA) or exams needed to obtain a taxi driver permit that differ unduly between municipalities. A number of municipalities should avoid to be captured by local taxi operators who do not have any incentive to support the efforts towards liberalisation and are therefore interested in maintaining the status quo.



## **7. Conclusion**

Over the past years, there was a trend towards deregulation in Switzerland. The reform of the IMA marks a step towards a completely deregulated market. Nevertheless, many different regulation regimes will continue to exist due to the federalist system. A total deregulation is not expected and a number of cantons and municipalities will continue to argue that such rules serve customers interests. This perspective is all the more likely as the taxi operators do not support the idea of a market without restrictions. In addition, the steps undertaken towards liberalisation have led to mixed results. Regime changes did not result in a substantial price decrease, but the opposite wasn't true either.

More competition between the taxi operators can not only be achieved on the regulation level but is also dependent on the people's habits. In Switzerland, passengers hardly bargain on fares. Passengers continue to take the first taxi in the line as practical experience shows. This attitude prevents competition mechanisms to crowd out expensive and qualitatively inferior taxi operators and drivers.

## TURKEY

Taxis are an important component of local transport services especially in the big provinces of Turkey. In İstanbul which is the biggest metropolis of Turkey, there are 18000 registered taxi service providers whereas there are around 90000 registered taxi service providers nationwide. In Turkey, taxi service providers are considered as ‘tradesmen and craftsmen’. Taxi service providers are represented through their chambers in various districts and provinces. There are around 730 ‘Drivers and Automobile Businesses Chambers’ nationwide. All those chambers are members of the ‘Turkish Federation of Drivers and Automobile Businesses’ (TSOF), while TSOF is among the 13 sectoral occupational organizations forming the ‘Turkish Confederation of Tradesmen and Craftsmen’ (TESK) which is one of the most important non-governmental organizations of Turkey (*Annex 1: Organization Chart*).

The chambers of drivers and automobile businesses are subject to ‘Tradesmen and Craftsmen Occupational Organizations Law’ numbered 5362 and dated 07.06.2005. This law is used to scrutinize craftsmen chambers, unions, federations and confederation establishment and operational rudiments so as to serve to today’s conditions.

The rules and procedures that would be valid to get a valid taxi license plate is determined via Decision of the Council of Ministers numbered 10553 and dated 02.04.1986. According to article 3 of this Decision those who announce that they choose to be a taxi driver in order to sustain their living, should do this continuously. Moreover, those who are a member of one of the drivers and automobile businesses chamber can get a valid taxi license plate. After getting the taxi license plate, owners have a right to sell them to those persons who carry out the same criteria. In this regard, taxi license plates are tradable but the prices are changing from one city to another. For instance, the taxi licenses of big cities like İstanbul and Ankara are the most valuable ones. Taxis can operate within the physical boundaries of a province.

Moreover, according to article 63 of the Labour Law numbered 4857 and dated 22.5.2003, the maximum number of working hours for taxi drivers is 45 hours per week. Currently there is no standard control mechanism concerning the safety oriented restrictions, although there were “driver work report cards” in the past which were compulsory in nature and which were indicating the working hours of a taxi driver.

The number of taxis that can operate is also regulated by this Decision. After taking population growth and transportation plan of a district and/or province into consideration, the Traffic Commission of that district/province declares to the Ministry of Internal Affairs the needs of that area via a report. Traffic Commissions are linked to the governorships. TSOF is also represented in Traffic Commissions. It is up to the Ministry of Internal Affairs to issue valid taxi license plates. Valid taxi license plates are allocated according the sealed tender process by the Traffic Commission. Traffic Commission determines the rules that need to be followed during the sealed tender process for that province. According to article 7(b) Municipality Law no 5216 dated 10.07.2004, municipalities were responsible not only for the maximum number of taxis that can operate in provinces but also for the designation of taxi fees. Afterwards, this function was delegated to ‘Transport Coordination Centers’ in metropolis municipalities (18 provinces are considered as metropolis in Turkey) via by-law for the ‘Transport Coordination Centers of Municipalities’. At the moment the number of taxis is determined via Transport Coordination Centers found in the metropolis provinces and via Traffic Commissions in other provinces and districts.

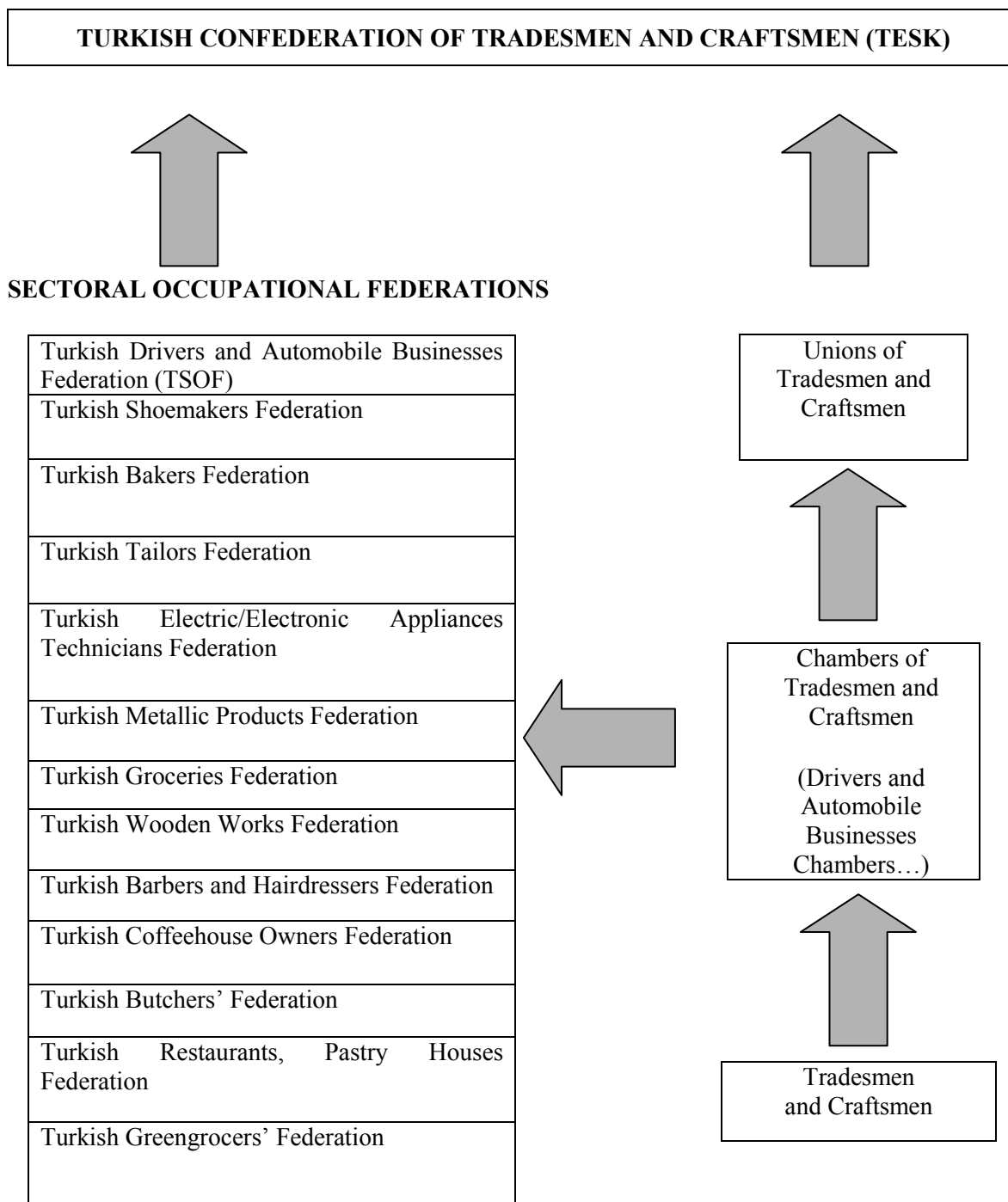
Meanwhile, Tradesmen and Craftsmen Occupational Organizations Law numbered 5362 dated 07.06.2005 which came into effect at a later date compared to Municipality Law no 5216 changed the regulation for pricing. Accordingly, article 62 of the Tradesmen and Craftsmen Occupational Organizations Law grants to the Chambers with which tradesmen and craftsmen are affiliated the right to publish price tariffs for goods and services produced by these tradesmen and craftsmen. With this provision, the right to determine price tariffs of tradesmen and craftsmen is explicitly granted to the Chambers and the Unions with which the Chambers are affiliated. Those Unions either approve or refuse those price tariffs in 30 days. Approved price tariffs are notified to municipality, civilian authority and concerned chamber in 7 days and from that on they come into force. If the municipal or the civilian administrator does not approve those price tariffs, then they might request reconsidering the price tariffs in 15 days in a Commission composed of the civilian administrator or its assistant, one member from the Union and one member from the Chamber. The Commission takes its decisions on absolute majority basis. If the Commission does not agree with the tariffs, the tariffs will be abolished. The concerned parties might appeal at the Commercial Courts in 10 days against the decisions of the Commission and the Court's decision is definite.

Article 62 also foresees that those prices show the maximum limits to be placed. In fact, this issue concerning "maximum prices" is added to the Law as result of the Turkish Competition Authority's (TCA) opinion that was sent during the preparation stage on the draft law on the Occupational Organizations of Craftsmen and Tradesmen in 2004.

The Turkish Competition Authority has not dealt with this sector directly in any of its examinations so far.

ANNEX 1

ORGANIZATION CHART OF TESK



## **TURKISH CONFEDERATION OF TRADESMEN AND CRAFTSMEN (TESK)**

TESK is a tradesmen and craftsmen organization that has been established to set and regulate economical and social formations of the society as it originated in relation to the “trade guild membership” formed in 12th century. Currently, it has a country-wide organizational structure with its 13 Sectoral Occupational Federations (one of them is “The Turkish Federation of Drivers and Automobile Businesses”). Furthermore, it is the biggest occupational organization with its public institution property representing nearly 1.8 millions tradesmen and craftsmen members working through service and production sectors. All of its managers are assigned to their positions through democratic elections carried out by its members, and is managed by an administration board consisting of 15 persons. TESK safeguards the interests of its members, represents tradesmen and craftsmen inside and outside of Turkey. It maintains its activities by taking all necessary actions in every platform whenever necessary in order to establish integrity between its affiliated tradesmen and craftsmen chambers, unions, and federations. Chambers of Tradesmen and Craftsmen are those chambers that have been established in every province and district center by the inter-cooperation of at least 500 actively functioning tradesmen and craftsmen coming together and having the same or various occupations. They maintain activities pertaining to safeguard the interests of its members’ and ensuring their improvement in their field of activity.

## UNITED KINGDOM

### 1. Summary

In November 2003, the OFT published a market study<sup>1</sup> entitled 'The Regulation of Taxi and PHV Services in the UK'. The OFT has just published an evaluation of the impact of this market study. This paper presents the key findings of this evaluation, and its implications for taxi regulation in the UK.

The paper is structured as follows:

- Section 2 summarizes how taxi and PHV regulation works in the UK;
- Section 3 describes the OFT's 'taxi market study' and the evaluation of the study;
- Section 4 suggests some lessons that could be learnt from the evaluation.

Details of the OFT evaluation programme can be found in Annex 0.

### 2. Taxi and PHV Regulation in the UK

Local taxi markets in the UK are determined by local administrative boundaries, since each local authority ('LA') has considerable discretion over how taxis are regulated in their area.

Each of these local markets can usefully be sub-divided into two sectors:

- 'Taxis' are able to cruise for hire, and to wait at designated taxi ranks for customers. They can also be pre-booked by telephone. They are subject to all the types of regulation outlined below.
- 'PHVs' can only be pre-booked by telephone. They are not able to solicit trade at designated taxi ranks or on the street. However, they are not subject to the quantity and fare regulations outlined below.

The extent of taxi regulation varies from LA to LA. All LAs must implement and enforce quality and safety regulations. These divide into the following types:

- Driver regulation: throughout the UK, those with taxi licences must be deemed 'fit and proper' to hold one. Some LAs, most notably London, require applicants for a taxi licence to pass some kind of test to demonstrate knowledge of local routes;

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<sup>1</sup> Market studies are investigations into markets which the OFT is concerned may not be working well for consumers, but where competition or consumer regulation enforcement action does not appear, immediately, to be the appropriate response.

- Vehicle Regulation: taxis must meet standards set by LA byelaws, as well as satisfy any additional 'Conditions of Fitness' requirements (e.g. specified maximum turning circumference).

LAs also have the power to set the maximum fares that taxi drivers can charge per mile travelled. Local byelaws in most LAs call for taximeters to be used in calculating fares. LAs use a variety of methods to decide taxi fares, and there is little detailed central government guidance on the matter.

The area of taxi regulation on which both the original market study and the subsequent evaluation focussed is quantity regulation. LAs are permitted to control the number of taxi licences they issue as they see fit, provided there is no unmet demand for taxi services.

In practice, this creates significant local variations. At one end of the spectrum, some LAs allow completely free entry into the local taxi market (subject to new drivers and vehicles complying with local vehicle and driver requirements). Others have a policy of imposing a limit on the number of licences ('quantity controls'), but with a commitment to issuing a certain number of new licences per year. At the other extreme, a significant number of authorities have no commitment to such a 'managed growth' policy, and have allowed the number of taxi licences to remain static for many years.

In areas where quantity restrictions apply, it is common to see taxi licences themselves develop a financial value of up to £70,000, for which they can be sold to those keen to enter the taxi market. The fact that the license itself has a financial value indicates that taxi driving in areas with quantity controls is an activity from which participants expect to enjoy some economic 'rent'.

### **3. Evaluation of the OFT's 'taxi market study'**

#### **3.1 *The 'taxi market study'***

The November 2003 publication of OFT's 'taxi market study' followed a 15-month investigation into the UK taxi industry. The investigation was prompted by concerns that certain regulatory measures imposed by local authorities were weakening competition at the expense of consumers.

The principal recommendation of the 'taxi market study' was that quantity controls should be lifted. The report argued that doing so would bring considerable consumer benefits, including:

- Increased consumer choice, due to a predicted 30% increase in taxi numbers where quantity controls were removed;
- Reduced use of 'illegal' (unlicensed) taxis, thus increasing passenger safety;
- Lower waiting times, estimated at a total of 2.5m consumer hours per year across the UK.

The OFT also recognised that quality and safety regulations were of the utmost importance, and recommended that the DfT publish 'Best Practice Guidance' to guide LAs in making regulatory decisions.

The OFT accepted the need for continued fare regulation, chiefly to protect vulnerable consumers from being charged exorbitant fares. It recommended that published fares be the maximum permitted, and encouraged LAs to let consumers know that they could negotiate on fares.

The parliamentary response to OFT's 'taxi market study' was somewhat mixed. In Scotland, the recommendation to remove quantity restrictions was rejected. In England and Wales, the DfT wrote to LAs with quantity restrictions asking them to justify their policy. If quantity controls could not be justified, the

DfT requested that they be removed. In addition, DfT 'Best Practice Guidance' for local decision-makers was published in October 2006.

### **3.2 Evaluation of 'taxis market study'**

The evaluation of the OFT's 'taxis market study' was conducted between March and September 2007 by Europe Economics, an independent economic consulting firm based in London.

### **3.3 Research**

There were several strands to Europe Economics' research:

- A desk-based trawl of economics literature relating to taxi regulation to give a theoretical and empirical background.
- A survey of Licensing Officers in every LA in England, Wales and Scotland that gave data on: changes in taxi and PHV numbers; licensing Officers' perceptions of the influence the OFT's 'taxis market study' had had in shaping regulatory change; changes to the financial value of taxi licenses where quantity restrictions applied, or had applied at the time of the market study.
- A series of 'unmet demand surveys' in 3 LAs that had removed quantity controls, supplemented by 7 LA's that have kept quantity restrictions. These gave data on: changes in passenger waiting times; changes in driver waiting times; changes in sector shares for rank/ street/ telephone booking segments; and consumer satisfaction.

Europe Economics also interviewed key industry stakeholders. Their views gave a valuable 'sense-check' on the data from the unmet demand surveys.

### **3.4 Method for Calculating Impact**

Europe Economics identified and estimated 4 main sources of impact when quantity controls are removed:

- Impact 1: Consumers benefit from greater availability of taxis in the form of less waiting times at ranks and on the streets;
- Impact 2: Consumers benefit from switching from telephone booking to rank and street hailing due to lower waiting times.
- Impact 3: Consumers benefit from switching from other modes of transport to taxis.
- Impact 4: Taxi drivers suffer a loss of profitability since they have to wait longer between fare-paying passengers in a market where entry is no longer restricted. Insofar as this loss of profitability exceeds the benefits consumers enjoy from a better service (reduced waiting times), the taxi industry as a whole suffers a loss of productive efficiency.

This is not an exhaustive list of potential impacts. Most notable among the impacts that Europe Economics did not attempt to quantify were:

- Benefits to new taxi drivers who made the choice to enter the taxi market because it represented the best employment option available to them;



- Benefits to consumers from having to take fewer 'illegal' taxis.

They used a simple difference-in-difference methodology that compared changes in LA's that had derestricted to changes in LA's that had not.

Further details of their methodology for calculating these impacts can be found in Annex 0.

### **3.5 *A note about the data***

Since all the calculations are based around a sample of 3 LAs that have removed quantity controls, and 7 that have retained them, the confidence intervals around both the market share and the waiting time data are so large as to make all the figures statistically indistinguishable from zero at any reasonable confidence level.

The ranges of impact that we present below do not therefore represent the bounds within which the true figure necessarily lies, but rather 'best guess' estimates of where the true value lies made on the basis of the data available. However, we are confident that the signs of the consumer benefit, driver loss, and productive efficiency impacts are correct, as they reflect key stakeholder views, academic research, and the work done by Europe Economics to quantify the loss of taxi licence premiums.

### **3.6 *Key Findings***

Europe Economics estimated that:

- the annual consumer benefit from reduced waiting times on existing journeys (Impact 1) lay between £1m and £3.5m.
- the annual consumer benefit generated by passengers switching from telephone booking to rank and street hailing (Impact 2), and from passengers switching from other transport modes to rank and street-hailed taxi services (Impact 3) was about £1m.
- the annual loss to existing taxi drivers caused by having to wait longer between paying passengers (Impact 4) was between £12m and £31m.

The total consumer benefit of de-restriction (the sum of Impacts 1, 2 and 3) was therefore estimated to lie between £2m and £4.5m.

The effect on productive efficiency (Annual consumer benefit net of the annual loss to existing taxi drivers) is therefore estimated to lie between £6.5m and £29m.

Europe Economics found no evidence to suggest that fares had fallen as the result of the removal of quantity restrictions.

Europe Economics also found no evidence of a drop in quality, but did find evidence of increased supply of taxis at night.

### **3.7 *Interpreting the Results***

Europe Economics' results suggest that so far the impact of the removal of quantity restrictions has delivered consumer benefits at the cost of reduced productive efficiency in the sector.

If this is indeed the case, we believe that the most likely reason for this loss of productive efficiency in the sector is that whilst quantity restrictions were removed price restrictions, in the form of regulated maximum price levels, were retained by LA's. The interplay between the two restrictions is crucial.

The removal of quantity restrictions stimulated new entrants to the market which led to a substantially increased supply of taxis. While the increased supply benefited consumers by decreasing consumer waiting times, the consequent increase in consumer demand – at least to date - for taxis was small.

However, where quantity restrictions are removed but price restrictions – albeit on maximum prices - are retained, new entrants will be likely to be attracted to the market by the existence of the price restrictions, and attracted in numbers to the point of oversupply, and such new entrants will tend to charge the regulated maximum price.

In a normal market, i.e. one where there are no quantity or price restrictions, oversupply would in the ordinary course lead over time to a fall in price as supply and demand came into equilibrium. This does not occur in a market where price restrictions – in the form of maximum prices which are applied by new entrants - are set by LA's.

In all likelihood, the regulated maximum fares:

- were significantly above market clearing levels before quantity controls were removed; and
- remained significantly above market clearing levels after quantity controls were removed.

If LA's lowered regulated maximum fare levels closer to a market clearing level when removing quantity restrictions, oversupply would decrease, and the productive efficiency of the market would increase. Demand for taxi services would grow, since consumers' elasticity of demand with respect to fares is greater than with respect to waiting times. Increased demand for taxis would remove the possibility of a growing number of taxi drivers serving a pool of passengers that remained essentially constant whilst maximum regulated fares were retained. In addition, lower fares would reduce the attraction of taxi driving to potential entrants, so new entry would not therefore be as great. Supply and demand would be brought into equilibrium.

### **3.8 *Potential Regulatory Lessons***

Any conclusions we draw on the wider significance of the findings of Europe Economics' evaluation are tentative. As stated before, Europe Economics' impact calculations are based on observations in only a few LAs, and they are not adjusted to take account of other factors which may have influenced driver and passenger waiting times besides the removal of quantity controls.

Despite this, we believe it is fair to conclude that policymakers who wish to introduce more competition into markets where price and quantity are tightly regulated, and where prices established under such a regulated regime may be significantly above market clearing levels and are applied in practice, should consider the interaction between the two forms of regulation very carefully.

Europe Economics' results appear to show that trying to introduce more competition into such a market only by removing quantity controls, and without considering whether regulated prices are above market clearing levels, may have mixed results: consumers do benefit, but not to the extent that they could do, and entry could be excessive.

By bringing regulated prices closer to market clearing levels, a policymaker might reasonably expect to reduce excess entry, bring direct benefits to consumers in the form of lower prices, and reduce the scope for productive inefficiency in the market.

## ANNEX A: THE OFT EVALUATION PROGRAM

A specialist Evaluation unit was set up at the OFT in 2005. It currently has 4 full-time members.

The Evaluation program covers both the OFT's competition and consumer work. It aims to meet two needs:

- External accountability: does the OFT deliver its objectives in a cost-effective manner.
- Internal management: by highlighting where the OFT has had high impact in the past, evaluation can help direct resources towards high impact work in the future via our Prioritisation process.

The evaluation program contributes towards these twin aims in several ways.

- Firstly, the evaluation team commissions' in-depth evaluations of discrete projects, such as the OFT's 'taxi market study'. These tend to be contracted out to external consultants. Ideally, ex post evaluations present a monetised estimate of the impact of the OFT intervention, identify remaining detriment in the market, and suggest ways in which the delivery of the intervention might have been improved to maximize impact. The OFT aims to publish all of its in-depth evaluations.
- Secondly, the OFT commissions research to analyze the wider impact of the OFT's work, beyond its direct impact on consumers. Ongoing and future projects of this kind include an assessment of the OFT's deterrent effect, and an assessment of how effective OFT interventions against bid-rigging in the construction industry have been and what tools, complementary to enforcement, could be used to increase the impact of cartel enforcement work in this industry.
- Thirdly, the OFT has started developing frameworks to estimate projects' impact at both the project go-ahead and project wrap-up stages. The OFT has started embedding anticipation of evaluation into its market studies, competition enforcement, merger, and scams work and plans to continue this effort in all key areas of its work. The OFT also aims to continue to improve the impact estimation methodology it uses by seeking active feedback through seminars and publications.
- Finally, the OFT has recently signed a performance framework agreement with HM Treasury (HMT) for the spending review period 2008-11. Compared to previous years, the performance framework agreement is much more focussed on the achievement of outcomes, rather than outputs. It commits us to provide quantitative evidence of how the OFT delivers direct financial benefits to consumers of at least five times that of its cost to the taxpayer across the spending review period. It also commits the OFT to estimate the additional wider benefits of OFT's work, such as deterring future anti-competitive behaviour.

## ANNEX B: IMPACT CALCULATION

Europe Economics calculated Impact 1 as follows:

$$C_t = (W_{t-1} - W_t) \cdot V_p(t) \cdot X_{t-1}$$

where:

- $C_t$  is the annual benefit to consumers
- $W_{t-1}$  is the observed passenger waiting time before quantity controls were removed;
- $W_t$  is the observed passenger waiting time after quantity controls were removed;
- $V_p(t)$  is passengers' value of time
- $X_{t-1}$  is the number of journeys per year before quantity controls were removed.

Europe Economics calculated Impact 2 as follows:

$$C_t = \Delta(S_t) \cdot (W_t - W_s) \cdot V_p(t)$$

where:

- $\Delta(S_t)$  is the increase in the number of new taxi journeys due to passengers switching from telephone booking following derestriction.
- $W_t$  is the average waiting time for telephone bookings
- $W_s$  is the average waiting time for street and rank hirings

Europe Economics calculated Impact 3 as follows:

$$C_t = X_{t-1} \cdot (W_{t-1} - W_t) \cdot \frac{\partial N}{\partial W} \cdot (W_r - W_s) \cdot V_p(t)$$

where:

- $\frac{\partial N}{\partial W}$  is elasticity of passenger demand with respect to passenger waiting time

- $W_r$  is the average passenger waiting time for other public transport modes (ie potential substitutes for taxis)

Europe Economics calculated Impact 4 as follows:

$$D_t = (Y_{t-1} - Y_t) \cdot X_{t-1} \cdot V_d(t)$$

where:

- $Y_{t-1}$  is the observed driver waiting time before quantity restrictions were removed;
- $Y_t$  is the observed driver waiting time after quantity restrictions were removed;
- $V_d(t)$  is drivers' value of time.

As a means of verifying Impact 4, Europe Economics also quantified the loss of taxi licence premiums in areas that had removed quantity restrictions.



## UNITED STATES

In the United States, taxi services are regulated at the state or local level. The involvement of the Federal Trade Commission in this sector has focused primarily on efforts to assist deregulation in the industry, through reports and advocacy efforts, including 18 filings with various local authorities from 1984 through 1989. In addition, the FTC brought enforcement actions against two U.S. cities in 1984. The FTC's major contribution is a staff report on taxicab regulation.<sup>1</sup> That report was submitted to the Competition Law and Policy Committee in 1990 in connection with a round table discussion of this topic.<sup>2</sup> The main conclusions of the report were that restrictions on entry (numerical limits, limits based on cab/population ratios, or public convenience and necessity requirements) did not appear to be supported by plausible theoretical arguments.<sup>3</sup> Even in those situations where problems had arisen following a change to

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<sup>1</sup> Frankena, M. W. and P. A. Pautler (1984) *An Economic Analysis of Taxicab Regulation*, Bureau of Economics, Federal Trade Commission, available at: <http://www.ftc.gov/be/econrpt/233832.pdf>.

<sup>2</sup> The report described the various market segments that exist, including cruising cabs, cabs that wait for riders at taxi stands, radio-dispatched cabs, and cabs providing services under contract. The report also reviewed the history of taxicab regulation in the United States and described various types of regulation that existed in the taxi industry. These forms of regulation included entry restrictions based on the absolute numbers of cabs or the ratio of cabs to the city population, and requirements that entrants prove that their entry is necessary to improve public convenience. Typical regulations also fix the fares that can be charged or provide for maximum rates of fare. Most urban areas also regulate many other aspects of service and safety. The report also discussed many theories of market failure that might justify regulation of taxicabs serving cruising, cabstand, radio-dispatched, and contract segments of the market. As the authors note, special characteristics of the cruising and cab-stand segments (e.g., high bargaining costs and first-in/first-out queues) may make it difficult to induce price competition among the various firms. If so, maximum fare regulation may be required to achieve an efficient outcome. Competition in the other two segments would appear to be viable because shopping for lower fares should be possible at relatively low cost. In addition to an analytical examination of the market segments, the report reviewed the evidence of deregulation during the late 1970s and early 1980s in thirteen U.S. cities, focusing on Seattle, San Diego, Phoenix, Tucson, Berkeley, and Oakland.

<sup>3</sup> In November 2003, the UK Office of Fair Trading (OFT) released a report examining the taxicab literature and the experiences with regulation in seven countries and 13 licensing areas in the UK (five of which recently experienced changes in regulation). The OFT concluded, similarly to Frankena and Pautler (1984), that "there is no clear economic rationale for quantity controls which appear to have been introduced in the 1630s primarily to prevent street congestion." (p. 36). They recommended a policy of open entry, maximum fares with flexibility downward, and proportionate direct regulation of quality and service attributes. One theoretical paper, Cairns & Liston-Heyes (1996) argues that an entry restriction (in addition to a fare ceiling) is needed to reach the second best optimum, but there is an error in the profit function in that paper. No entry restriction is required given appropriate fare regulation.



open entry,<sup>4</sup> other regulatory responses (*e.g.*, maximum price levels, physical reconfiguration of taxicab queues) would likely be more efficient responses to such problems.<sup>5</sup>

As of 2007, the general description of the taxicab industry and taxicab regulation in the United States remains much as it was when Frankena and Pautler described it in 1984. That is, nothing dramatic has happened to alter the U.S. industry in the interim.<sup>6</sup> Although the details of regulation vary from place to place, most major cities continue to regulate entry and fares in some manner, most also regulate the types of service that can be provided (*e.g.*, minimum number of cabs per company or association, 24/7 coverage of telephone requests, shared riding, conditions for service refusals, definitions of service areas, required dispatch capability, required taximeters), vehicle and driver characteristics (*e.g.*, cab age and design, signs, no criminal background, knowledge of the city streets and landmarks, record keeping, neatness, facility with the English language, and sensitivity training), and service quality (*e.g.*, cab cleanliness, maximum response times). In addition, jurisdictions often regulate the maximum hours of service per driver per day, license transferability, safety inspection frequency, and insurance and bond requirements. Recently, some cities have begun regulating the environmental effects of cabs, instituting minimum mileage per gallon requirements or requiring particular types of low emission vehicles. The monitoring levels for these various regulations seem to vary widely across jurisdictions.<sup>7</sup>

The stringency of entry regulation can manifest itself in the value of taxicab licenses. In a competitive, open entry market, the value of the right to serve the market would be zero. However, if the right to serve is restricted, the value of that right is capitalized in the price of the license. A list of taxicab license values for selected cities in the U.S. and elsewhere where transfers of the rights are allowed is

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<sup>4</sup> Problems associated with entry occurred at cab stands as lines of waiting cabs lengthened, cabbies bickered over their places in the queue, and service refusals occurred if a passenger wanted a short trip. See the discussion (pp. 125-143) of the situations at airports in Seattle, San Diego, and Phoenix. Reports of similar problems at hotels are common. Where permitted, some hotels have used exclusive contracts to minimize effects caused disruptive taxi drivers.

<sup>5</sup> Frankena and Pautler (1984) noted, "In marked contrast to the radio-dispatch segments, there have been many problems in cab stand market segments at airports following regulatory reform as a result of lengthening of the queues. These problems do not provide an argument in favor of entry restrictions, however. Rather, they suggest that there would be significant gains from either increasing fare competition at airports or imposing lower fare ceilings on airport taxi service. Fare ceilings could be reduced until the taxi queue shortened to the desired length." (pp. 8-9)

<sup>6</sup> For a detailed description of the industry, see Frankena and Pautler (1984, pp. 10-28 and especially note 21), Price Waterhouse (1993, pp. 4-5), and Gilbert et al. (2002). Perhaps the biggest change on the horizon is computer-based dispatching technology and mapping that is being introduced throughout the industry. Soon (1999) indicates that dispatch costs may have fallen as telecommunications options have increased. Seibert (2006) predicts that telecommunications advances could have significant effects in helping match riders and available cabs in the future. The most significant continuing change in the U.S. industry has been the move to lessee/contractor drivers from the owner-operator or employee format of the 1950s and 60s. The advent of contracting was likely caused by tax changes that made it advantageous for taxi firms to characterize their drivers as independent contractors rather than employees. It is not clear how this change has altered driver incentives to provide high service quality, but that issue is a recurring theme of certain industry commentators. Gilbert et al. (2002, p. 23) report, based on their survey, that 91% of U.S. taxi drivers are now independent contractors rather than employees. Gilbert et al. (2002, pp. 19-23) also report that private contracts provide a substantial portion of the revenue for taxi companies. Eighty percent of firms report having such contracts and 39% of taxicab revenue comes from contracts.

<sup>7</sup> In most cases the jurisdictional unit is a city or a county. In a few instances, regulation occurs at the state level. Taxis serving airports are often regulated differently from those serving the surrounding area.

attached.<sup>8</sup> The fact that license values are substantial in several U.S. cities (e.g., permits (corporate medallions) for cabs serving downtown New York City recently auctioned for over \$590,000 even though the city has allowed over 900 new cabs to be added to the 1937 maximum of 11,787 in the last decade) implies that entry restrictions have raised the rate of return in taxi service provision above that in other lines of endeavor and that prices are likely higher and the number of trips lower than they would be in the absence of regulation. Certain authors (e.g., Gallick & Sisk (1987) and Cairns & Liston-Heyes (1996)) have argued that these high license values provide a mechanism that ensures good behavior by the cab drivers if the drivers fear the loss of the license in the event of inappropriate behavior. Frankena and Pautler (1984) discussed this point at pp. 71-72.

The next section considers three experiments with deregulation in the U.S., followed by a discussion of lessons learned from the U.S. experience more generally.

## 1. Experiments with Deregulation in the U.S.

Since entry restrictions were adopted by most cities in the United States during the 1930s, at a time when many U.S. industries sought governmental protection from competition, experiments with taxicab deregulation have been infrequent. One exception was a period in the late 1970s and early 1980s when several moderate-sized cities altered their regulations to make entry less difficult.<sup>9</sup> One major city, Washington D.C., has retained an easy entry policy (and its unique zone pricing structure) from at least 1970 through 2007.<sup>10</sup> Since the late 1970s, however, there has not been a great deal of activity in taxicab deregulation and open entry among U.S. cities.<sup>11</sup> Two of the leading examples of deregulation in the U.S. are provided by Seattle, Washington in 1979, and Indianapolis, Indiana, in 1994; the limited evidence

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<sup>8</sup> The list was compiled from readily available information and it does not represent a complete listing of license values for all U.S. cities. Many cities restrict entry, but do not allow license transfers, so public information on the value of the right-to-serve in those cities is not directly available. Even where the licenses are not transferable, licenses are often leased to non-owner drivers for substantial fees. For example, the San Francisco Controller's Taxicab Industry Report (August 4, 2006, p. 6) reported that cab drivers in the San Francisco paid lease fees of \$1,900 per month for the right to serve the city. That fee would imply a transfer value of over \$250,000. (The value of a monthly flow of \$1,900 for 30 years discounted at 8% would exceed \$250,000).

<sup>9</sup> The 1970s experiences of several cities are recounted in Frankena and Pautler (1984, pp. 125-154). These same experiences (with a more negative interpretation of the results and some additional information on fares) are discussed by Teal and Berglund (1987) and Price Waterhouse (1993).

<sup>10</sup> The District of Columbia's cab system and its apparently relatively low prices are described in Frankena and Pautler (1984, pp. 83-89). DC taxicab prices are difficult to compare to those of other cities due to the unique zone-based system used in the District. The District's taxicab regulatory system is a periodic subject of debate among local taxicab providers, businesses, and politicians.

<sup>11</sup> Complete freedom of entry would destroy the value of the existing licenses and would therefore be vigorously opposed by incumbent service providers. This is likely a key reason for the retention of entry regulation in many areas. Many jurisdictions allow occasional increases in the number of cabs if population grows or other demand factors change. Many jurisdictions also provide a forum for incumbent providers to try to block the entry of new firms or the provision of additional cab licenses.

regarding these cases is briefly discussed below.<sup>12</sup> In addition we note the current efforts of Minneapolis, Minnesota to open entry in stages.

### **1.1 *Seattle, Washington (1979)***

Seattle opened entry and allowed fares to be set by individual firms in 1979. The effect of these changes on fares has been the subject of some debate. They may have led to a small (5%) net reduction in fares as radio-dispatch fares fell and taxi-stand fares rose. Other reports indicated no net change in fares.<sup>13</sup> One effect that is not in dispute is the increase in service to cabstands at the airport due to the influx of additional cabs. This led to longer lines of taxis and dissention among cabbies. Price competition did not develop in part due to the first-in first-out queuing system often used at airports. In response to this problem, the airport imposed maximum fares and later disallowed additional entry. Still later, the County moved to an exclusive franchise system for the airport that continues as of 2007.

Although a 1980 survey of residents and visitors indicated a positive evaluation of taxicab service in Seattle immediately after the deregulation, Seattle and surrounding King County imposed a moratorium on new licenses and established fixed fares in 1984 in large part to avoid rate variation that occurred under flexible fares and to avoid the above mentioned airport queuing problems. Twelve years later, a 1996 report indicated dissatisfaction with the taxicab industry among various groups, particularly the hospitality industry (hotels, conventions, tourism, etc.).<sup>14</sup> The complaints centered on the independent (non-fleet) cabbies who reportedly provided poor service and were difficult to hold accountable for rule infractions. In 1997, the city and county introduced a wide range of new vehicle and driver testing regulations, and the city required that all cabs join a licensed association of 15 or more cabs. To induce monitoring of individual cabbies, each association is subject to a penalty system for violations by its drivers. As of 2007, Seattle taxicab licenses reportedly sell for as much as \$175,000 each. The City and County recently declared any new taxi licenses to be non-transferrable.<sup>15</sup>

### **1.2 *Indianapolis, Indiana (1994)***

In July 1994, Indianapolis, Indiana, deregulated taxicabs and allowed jitney<sup>16</sup> and minivan operation as part of a broader market-oriented approach to city governance taken by a new city administration. As in many US cities, the airport was allowed to retain tighter controls on cabs. The city administration indicated that the deregulation was a success, pointing to increases in the number of cabs and the number of taxicab companies, a doubling of active cabs, fare reductions (newcomers cut fares by 7-10%), service improvements, reductions in customer complaints, and the granting of one new jitney license. Wages and

<sup>12</sup> A general problem in examining the regulatory changes is the lack of comparable before and after evidence and a model of what the local taxi market would have been like had the change not occurred. This was a problem for evaluating the deregulatory efforts in the 1970s even though the U.S. Department of Transportation spent a great deal of effort trying to monitor the changes in various cities. That does not mean the information we have is useless, but it is far from perfect, and in many instances the information is largely anecdotal. As computer-based dispatch and metering systems become more widely used, hard data on various aspects of service quality may become more widely available for US taxi markets.

<sup>13</sup> Zerbe (1983) indicated that radio-dispatch fares fell, but airport and taxistand fares rose, resulting in a small net decline in fares. For a description of Zerbe's results and the Seattle experience, see Frankena and Pautler (1984, pp. 125-131). Teal and Berglund (1987, pp. 42-45) examined taxicab trade association survey data and concluded that fares did not change in Seattle following deregulation.

<sup>14</sup> See Avants et al. (1996).

<sup>15</sup> For a description and history of the Seattle and King County taxicab regulations, see the King County 2006 Annual Taxicab Report, April 2007.

<sup>16</sup> Jitneys provide transportation service for individuals along a semi-fixed route.

profits fell. As in Seattle, many of the new cab drivers worked the airport queues and those queues reportedly remained long as of 1999.<sup>17</sup>

The ultimate effect of the 1994 deregulation in Indianapolis is in dispute. The city administration through 1998 viewed it positively, while others portrayed it as a failure. The police officer in charge of taxicab complaints during the entire period indicated that the number of consumer complaints rose immediately after deregulation, but that complaint levels later declined below those during the more heavily regulated period, and that the complaints focused on fares, rather than service quality. On July 2, 2002, a new Indianapolis mayor proposed additional driver and cab owner requirements following complaints about inadequate service to tourists and residents.

### **1.3 *Minneapolis, Minnesota (2007)***

As of mid-2006, the city of Minneapolis restricted taxicab entry and fixed fares, and the value of a taxicab permit to serve the city was \$25,000. The public convenience and necessity (PCN) portions of the taxi regulations also allowed incumbent taxi companies to block new entry. In October 2006, the Minneapolis City Council removed PCN regulation and moved to allow 45 new, non-transferable taxicab licenses to be added to the stock of 343 licenses each year until January 1, 2011, when limits on licenses would be removed entirely. At the same time, the city initiated new taxicab regulations involving environmental effects, wheelchair accessibility, and minimum company size. Disgruntled incumbent permit owners, who understand that the removal of restrictions would lower the value of the permits, sued the city on March 13, 2007 to block the increase in new cabs.

These are only three of the many examples of deregulation within the U.S. The experiences across the United States with taxi services deregulation offer insight that can be helpful for future efforts. The next section considers these lessons.

## **2. Lessons from the U.S. Experience**

Reviews of the effects of deregulation experiences in the United States indicate that:<sup>18</sup> (1) the number of cabs and cab companies rises and, therefore, employment opportunities and the number of cab hours of service rise; (2) the bulk of the new entrants are individual drivers who serve taxi-stand markets that do not require radio-dispatch capability; this leads to longer queues of drivers at those locations where waiting times for riders was always low;<sup>19</sup> (3) new radio-dispatched companies occasionally begin operation, but

<sup>17</sup> For a very positive description of the changes about one month after entry was allowed, see Editorial, Indianapolis News, August 4, 1994, and Moore (1998, pp. 50-53). Later press reports were less positive, reflecting either deteriorating performance or information from other sources. See, David Shaffer "Cab Deregulation: Competition or a License to Gouge? New Firms Hail the Equipment, but Older Firms Say Fares are Up, Profits Down," Indianapolis Star, June 11, 1995, E-1; and Adam Ellick "Stuck in Idle: Cab Drivers Who Work Indianapolis International Have Found it Tough to Make a Living Since Airport Service was Deregulated Five Years Ago," Indianapolis Star, Aug 22, 1999, E-1. The city administration still considered deregulation a success as of December 1998. (See December 10, 1998 letter from John Hall, Indianapolis Deputy Mayor to Hamilton Smythe, President, International Taxicab and Livery Association (the industry trade association) arguing that all the underlying goals of the Indianapolis deregulation had been met.)

<sup>18</sup> See Frankena and Pautler (1984), Teal and Berglund (1987), Price Waterhouse (1993), and Schaller (2006). Because no one has good data for pre-and post-deregulation comparisons of similar situations across jurisdictions, the field experiments have provided less information than one might hope.

<sup>19</sup> Changes in customer waiting times in the radio-dispatch portion of the market were documented in only one case, San Diego, where a small reduction in average waiting time from 10 to 8 minutes occurred. The UK OFT (2003) reported waiting time declines in open entry cities in England, p. 30.

that is not the norm; and (4) little service innovation is evident. Fares may fall slightly in the radio-dispatch segment of the market,<sup>20</sup> but problems with an absence of price competition will occur at airports and taxi stands if maximum fares are not reduced sufficiently or competition is not viable due to first-in-first-out queuing.

The U.S. experience has not provided a clear example of the benefits of deregulation on taxi fares - relatively little changes in terms of fares. This may be because the few cities that have experimented with deregulation have not been those in which the pre-deregulation equilibrium was particularly far from that which would have existed in a deregulated environment. It may also be due to the fact that price competition does not develop among the many individual cab drivers who enter and serve taxi-stand markets. In addition, price cutting may be unprofitable because: (1) repeat customers may be uncommon in the taxi market, leading to little incentive to cut price to draw future business, and (2) on-time arrival may be the most important characteristic to repeat phone-hail cab riders, making price a relatively unimportant characteristic (so long as the price is within the realm of reason).<sup>21</sup>

A key lesson from the U.S. experience is that when deregulation is attempted in the future, administrators of the change will have to pay more attention to ensuring that price competition can be developed at the taxi-stand and airport locations, or that such locations are handled differently from the radio-dispatch segment. Examples from the U.S. suggest that regulating the two differently can be beneficial. Two prominent examples of this type of reform took place in Phoenix, Arizona, and Sacramento, California, where easier entry was allowed, but airport service was regulated and downtown hotels were allowed to contract for exclusive service with taxi companies if they wished to do so. This approach reportedly allowed these cities to ameliorate airport and taxi-stand problems that were associated with open entry in other cities.<sup>22</sup> Phoenix continues to be one of the two large U.S. cities that allow entry. Phoenix also has flexible fares. The status of the Sacramento experiment with open entry is unclear. The city instituted an entry moratorium in 2003. Whether the use of exclusive contracts is the best approach to solving the taxi-stand problems is open to debate. Exclusive contracts can help solve the problems associated with unaccountable independent drivers, but it does not directly improve price competition at the queues (unless pricing is made part of the contract) and may not be the approach that would maximize the welfare of taxi riders.

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<sup>20</sup> In the U.S., fares may have fallen a small amount in the radio-dispatch segments of certain deregulated cities (Seattle, Indianapolis, and Sacramento), but even those effects are in dispute. See Teal and Berglund (1987, pp. 42-46). Other international experience may provide a counterpoint to the U.S. evidence where fare reductions were not common. The New Zealand evidence reported by Gaunt (1998) and Soon (1999) indicates that fares in major cities might decline by as much as 20 percent due to deregulation of entry. The effect of deregulation on fares is important. If open entry coupled with fare flexibility below a cap does not result in fare reductions or waiting time reductions for riders, then the increased cab use might well be characterized as pure waste. Reducing maximum fares might then be the appropriate response. In addition, the 2000 open entry experiment in Dublin, Ireland, may provide a better test in a city where taxi service is relatively important.

<sup>21</sup> Empirical estimates do not imply, however, that customers are unresponsive to price. The responsiveness to price as measured by the elasticity of demand for taxi rides has been estimated to be slightly inelastic (falling in the -0.8 to -1.0 range). See Frankena and Pautler (1984, pp. 162-165). See Schaller (1999) for a more recent (and lower) estimate (-0.22) based upon New York City cabs serving Manhattan.

<sup>22</sup> Price Waterhouse (1993, p. 17). A system in which exclusive contracts and property rights play a large role in fostering incentives to maintain appropriate quality levels is discussed and promoted in Klein et al. (1997).

### **3. Conclusion**

The taxicab industry continues to be highly regulated in the United States. Some of that regulation – particularly entry restraints – is not strictly necessary, particularly if maximum fare regulation is effectively implemented. Deregulation requires care, however, particularly with regard to handling airport and taxi stand market segments. The U.S. experience suggests that price competition does not appear to develop in those segments, and appropriate maximum fares are needed to protect the public and to induce the appropriate level of entry. One solution to specific cab stand issues, such as those at hotels and airports, is the use of contracts between cab firms and the hotels and airport authorities.

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**TAXICAB LICENSE VALUES IN VARIOUS CITIES**

Atlanta, GA	\$30,000	2001	Janet Frankston, "Atlanta's taxis / King of the cabs: A driving force, but for what?" The Atlanta Journal-Constitution, December 17, 2001
Baltimore, MD	\$12,000-20,000	1996	"Baltimore: No Harbor for Entrepreneurs," Institute for Justice, Vehicles for Hire subsection (April 1997)
Boston, MA	\$227,000-260,000	2004	Chris Berdik, "Fare Game," Boston Magazine, September 2004
Chicago, IL	\$77,000	2007	Emma Graves Fitzsimmons, "Chicago hails 2 driven cabbies; Award honors their service to riders with disabilities and those in neglected areas," Chicago Tribune, February 2007
Cincinnati, OH	\$3,000-6,000	1994	Report of Cincinnati Enquirer recounted in R. Hardaway "Indianapolis Reaps The Benefits Of A Deregulated Industry" Christian Science Monitor, April 2, 1996
Columbus, OH	Up to \$25,000	1991-96	The Columbus Dispatch, editorial, November 11, 1996, p. 10A
New York, NY	\$423,000 (independent) and \$597,000 (corporate)	June 2007	New York City Taxi & Limousine Commission <a href="http://www.nyc.gov/html/tlc/html/misc/avg_med_price.shtml">http://www.nyc.gov/html/tlc/html/misc/avg_med_price.shtml</a>
Philadelphia, PA	\$77,000	2005	"Proposed Taxi Rate Increase" Philadelphia Parking Authority Board
Portland, OR	\$17,000	1998	J. Boroski & G. Mildner "An Economic Analysis of Taxicab Regulation In Portland, Oregon, April 1998, Cascade Policy Institute (at notes 21, 22)
San Diego, CA	\$126,000	2005	Jeff Ristine, "Committee puts brakes on proposed \$2 airport taxi fee," The San Diego Union-Tribune, April 2005
Seattle, WA	\$175,000	2007	Scott Gutierrez, "Longer wait times for taxis could mean city needs more cabs," Seattle Post-Intelligencer, April 2007
Calgary, Canada	C\$100,000 (US\$94,000)	2007	"The Taxi Cab; The door's always open, but the ride, it ain't free" National Post, July 2006
Ottawa	C\$185,000 (US\$175,000)	2007	"The Taxi Cab; The door's always open, but the ride, it ain't free" National Post, July 2006
St. John's, Newfoundland (Canada)	C\$15,000-20,000 (US\$14,000)	2003	Craig Jackson "Taxi Charges Deferred", St. John's Telegram October 28, 2003

Toronto	C\$120,000 (US\$113,000)	2007	Curtis Rush, "Cabs can't go green just yet, Moscoe says; Hybrids a decade away for taxi industry, he says, but critics charge councillor is behind the times," Toronto Star, May 23, 2007
Vancouver	C\$450,000 (US\$425,000)	2007	Bruce Constantineau, "Tourism officials hope new taxis will reduce waits; The province approved 111 more cabs, boosting the size of Vancouver's fleet by 23 per cent," Vancouver Sun, June 23, 2007
Adelaide, Australia	A\$221,400 (US\$181,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Brisbane	A\$405,000 (US\$332,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Melbourne	A\$400,000 (US\$328,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Perth	A\$237,000 (US\$194,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Sydney	A\$295,000 (US\$242,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Canberra	A\$280,000 (US\$230,000)	2006	"2006 State and Territory Statistics" Taxi Council Southern Australia
Hong Kong	HK\$3,000,000 (US\$385,000)	2007	Transport Advisory Committee chairwoman, South China Morning Post, April 2007
Paris	125,000 euros (US\$170,000)	2005	"Private Taxis No-Go in France", The Moscow News March 7, 2005
Rome	200,000 euros (US\$273,000)	2007	"Italian taxi drivers resume strike", Xinhua General News Service, May 2007

Conversions to US dollars at exchange rates for August 29, 2007 and rounded to nearest thousand dollars.  
 Australian\$ = \$0.82; Canadian\$ = \$0.94; Euro = \$1.36; HK\$ = \$0.128.



## INDONESIA

### 1. General condition of Public Transportation in Indonesia

The increasing number of population in Jakarta – a capital city of Indonesia – is one of the major factors that caused the growing demand of urban transportation. The transportation is to support all daily activities of the people in the capital. Traffic density and traffic jams have become one of the most popular issues. At this stage, the government do their utmost to overcome traffic problems in Jakarta, among others, by developing public transportation that can accommodate more people and by encouraging the operation of buses and trains.

Unfortunately, buses and trains usually do not offer security and comfort to their passengers. This opens opportunity to another public transportation means, which include security and comfort in their service, namely Taxis. For this reason, Indonesian transportation development is more on private (taxi) rather than public ones.

This development has allowed more and more private companies to enter the transportation business as taxi operators. As we may easily find, there are various private taxi operators. It indicates that competition is actually increasing in this sector and should be supported by proper regulations. However, due to the complexity of the policy making process – maybe related to the fact that we are still unable to explain properly the relationship between “system performance”, “management goals” and “transportation information policy”, the government seems very keen to be a dominant regulator, which lead to the creation of market structure of monopoly, cartel or even perfect competition where government has no control.

Global market trends which aim at open-market will push the government to open up their domestic market for the new players, both domestic and foreign ones. To do so, there is a demand for policies that can create fair business climate and to prepare conducive regulations.

### 2. Public Transportation Implementation in Indonesia

Road Transportation is provided based on the principles of mutual benefit, cooperation, fair and equality, balanced proportion, public interest, integrity, legal awareness and self-confidence.

The implementation of public transportation, including taxi, is based on the Law No. 14 year 1992 on Traffic and Road Transportation as well as its implementing regulations (Government Regulation, Regional Regulations, Ministerial Regulation and Directorate General for Land Transportation Policies)

According to the Article 35 the Law No. 14 year 1992, *activities related to carry people and/or goods that collect payment can only be done by public transportation*. According to the Minister of Transportation Decree No. 35 year 2003 Article 1, *public transportation is motorized vehicle used by people with direct or indirect payment*.

According to the Article 41 (1) the Law No. 14 year 1992 transportation business for people and/or goods using public transportation, is implemented by Indonesian Legal Entity or Indonesian Citizen.

Article 41 (2) the Law No. 14 stated, transportation business for people and/or goods using public transportation is implemented based on legal permit.

Public Transportation can be divided into two categories:

**2.1 *Transportation with designated route***

- Transportation across national border
- Transportation across cities and provinces
- Transportation across cities in a province
- Urban Transportation
- Rural Transportation
- Border Transportation;
- Special Transportation
  - Travel Car
  - Employee Car
  - Residential Transportation and
  - Feeder

**2.2 *Transportation without designated route***

- Taxi
- Rental Car
- Tourist Bus
- Certain Area Transportation

**3. Taxi**

According to article 49 (1) Government Regulation No. 41 year 1993 regarding Land Transportation, Taxi is a public transportation with passengers car specification having its special mark and is equipped with argometre.

According to article 28 (a) Minister of Transportation Decree No. 35/2003, people transportation without designated route includes taxi.

Thus, Taxi is a public transportation without designated route. Article 29 (1) Minister of Transportation Decree No. 35 year 2003 regarding the Implementation of People's Transportation on the Road with Public Transportation, stipulates further that taxi is a transportation that uses cars with special

mark and equipped with argometer, with a service to carry people from door to door in a certain and limited operational area.

According to the Government Regulation No. 41 year 1993 regarding Land Transportation, Passenger Car is a motorized vehicle that can accommodate as many as 8 (eight) seaters excluding the driver, with or without baggage facility.

In conclusion, taxi can be in the form of passenger car (sedan) as well as station wagon and van that has similar construction as sedan and meets technical standard set by the Directorate General for Land Transportation.

### **3.1 Market Failure**

Market Failure is a condition where the market is not on the perfect competition condition. Currently taxi market in Indonesia, in general, is very competitive. It can be seen from the numbers of the players in this sector. It can be concluded that *pro-competition* policies are already applied, no market-failure potentials and already opened for new entries and investors.

Current regulations set the requirements to fulfill in order to obtain the permit and the argometer-rate. Even though the rate has set by the government, this does not function as a limitation for business players in implementing their operational activities, but more as protection for taxi consumers. The benefit of this argometer-rate tariff and its details is to enable taxi passengers to have a sensible and fair price, to avoid one-sided price setting (in this case by taxi operators) and to simplify transaction process between producers (taxi operators) and consumers (passengers). However, in practice, the common tariff applied to all taxi operators but with different service quality.

One price applied for all taxi operators would be an unfair policy if we take also consider their quality of services. For good quality taxi, the price would sound fair. On the contrary, if consumers have to pay the same price for a low quality taxi, they will not feel satisfied. Thus, price setting mechanism would have impact on consumers behavior in choosing the taxi.

Based on these considerations, taxi operators are required to make innovations to attract their consumers, for instance, by improving their service quality. At the end of the day, this improvement will not only be a benefit for taxi operators or producers – as they may get higher income – but also for the consumers, as they may have wider range of alternatives of taxi and satisfaction improvement.

Found in several regions, there are many taxi that are not using the metres (tariff set officially by the government) and this was made by the agreement amongst taxi operators. If this practice continues, market failure is probable to happen due to the business players' attitude and not as a result of the government policy.

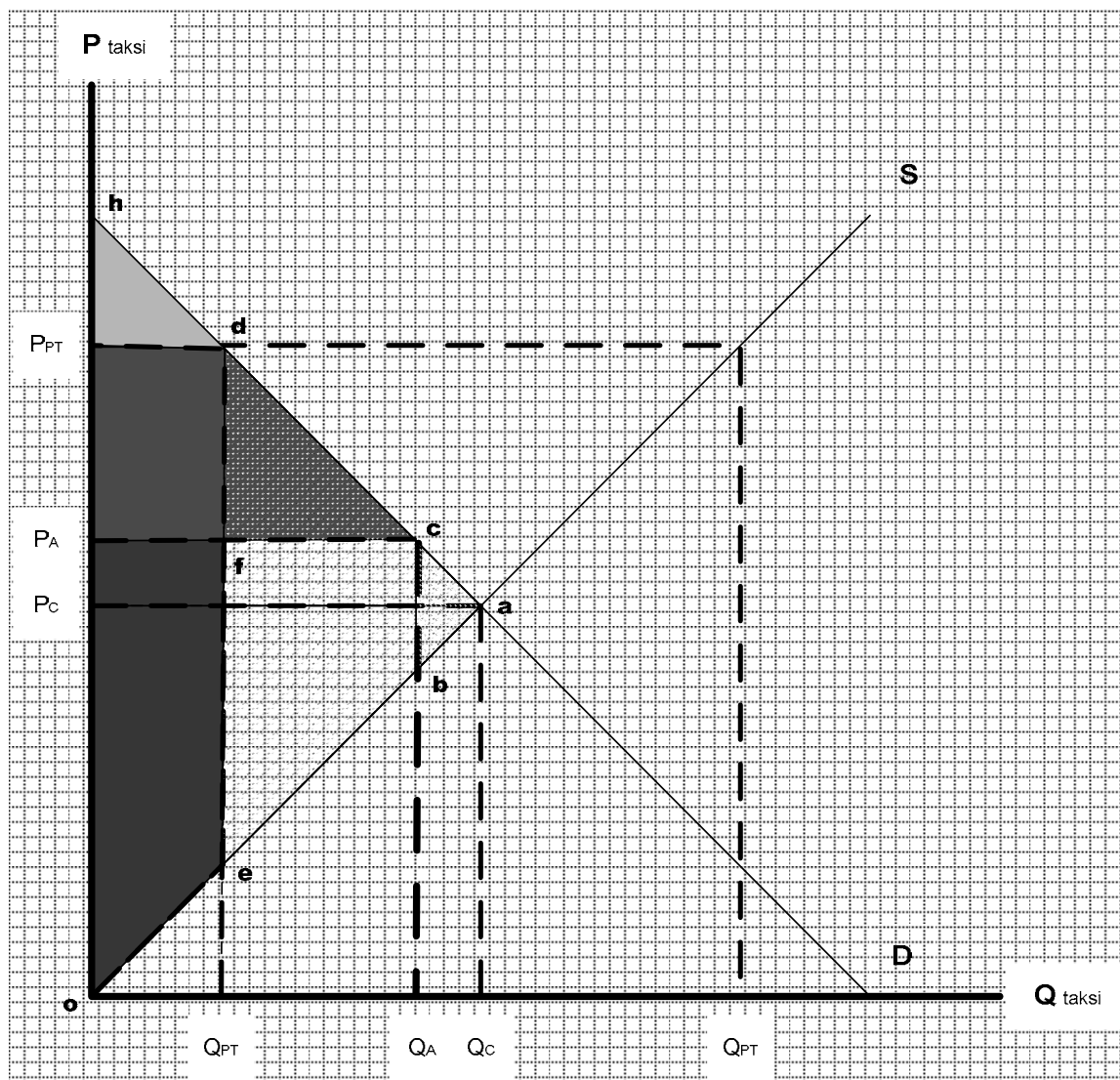
Taxi in Batam maybe taken as an example. In Batam, taxi market was colored by price fixing in determining the fare of taxi by taxi operators or taxi cooperatives. Thus, in providing their service, they would not use any argometers but would take the agreed price as the basis. On the other hand, based on the Decree of Batam Regency Head No. KPTS.228/HK/IX/2001 regarding the Implementation of People Carrier by Public Transportation in Batam City Road ("Keputusan Walikota Batam Tahun 2001"), "Taxi Operators or Taxi Cooperatives shall equip their taxi with argometers, logo and the names of the companies or cooperatives"

Moreover, in another decree No.KPTS.184/HK/X/2005 regarding Public Transportation in Batam City in 2005 ("Keputusan Walikota Batam Tahun 2005"), it is also stipulated that: "Especially for public transportation, it is compulsory for taxi to use argometre sealed by Batam Office of Industry and Trade

Service and the detail of the fare shall be readable in that argometres.” However, some taxi cooperatives have conduct practices that against these policies by applying agreed tariff that create loss on consumers’ side.

The agreed tariff price is normally higher than what is calculated by argometres. This will harm consumers as they will loose the opportunity to choose and has to pay higher fare than it should be. As an economic illustration, agreed price that create higher fare than argometer, will reduce consumers surplus to be enjoyed by the consumers.

In chart, the condition can be illustrated as follows:



Legend:

- $P_C$  is the price or tariff, an equilibrium between demand and supply (competitive fare)
- $P_A$  is the price or tariff used argometre as stipulated by “Keputusan Walikota Batam Tahun 2005”
- $P_{PT}$  is the price or tariff set by common agreement amongst taxi operators in Batam
- $Q_C$  is the quantity of taxi consumers at the competitive fare
- $Q_A$  is the quantity of taxi customers with argometer’s price
- $Q_{PT}$  is the quantity of taxi customers with the fare set by common agreement.

From the graph we can find the meeting point between demand curve (D) and supply curve (S) will create another point that we called as equilibrium price ( $P_C, Q_C$ ). When supply and demand on taxi between “taxi operators” and “taxi customers” occur, the equilibrium will be found in point a. As a is a point of equilibrium, producers’ surplus and consumers’ surplus can be traced. Producers’ surplus is all profit producers may gain, as shown by the triangle  $oP_Ca$ . Consumers’ surplus is whole profit gained by the consumers, as depicted by the triangle  $hP_Ca$ .

When the tariff using argometer is stipulated in “SK Walikota Batam Tahun 2005”, there was an increase on tariff from  $P_C$  to  $P_A$ , and equilibrium will then move from a to c. As a result of this tariff increase, the producers’ and consumers’ surplus area also changes. Producers’ surplus will shift from  $oP_Ca$  to  $oP_Acb$  and consumers’ surplus will also change from  $hP_Ca$  to  $hP_Ac$ . This change will create abc triangle, which popular known as *dead weight loss*, that is diminished surplus, due to the implementation of argometer’s tariff.

Market condition will then again changed when taxi consumers applied the price set by common agreement, which is higher than the argometer’s price, and which moved equilibrium point from c to d. Producers’ surplus also changed from  $oP_Acb$  to  $oP_{PT}de$ , while consumers’ surplus will move from  $hP_Ac$  to  $hP_{PT}d$ . This change will create the *dead weight loss* triangle, which is even bigger, that is dae triangle. From this illustration, we can conclude that tariff implementation will create even more loss for the consumers. This can be seen from the size of the area formed by meeting points of curves. From the demand side, it can also be concluded that the increasing taxi price will reduce the number of the consumers using taxi services.

### 3.2 Entry Regulations

Article of the Law No. 14/1992, stated that passenger carrier in form of public transportation can be in term of service with and without designated route.

Routine and designated route is public transportation that operates routinely and regularly, either with routine schedule or without any schedules. While non designated route is the route of public transportation that is implemented without any route link with another passenger transportations, that is normally irregular.

As an entree in taxi market in Indonesia, there are several things to be taken into considerations, prior to the permit release as it is written in Minister of transportation Decree No. No.35/2003 – the Third Part – regarding the formulation of the need of transportation without designated route (article 10,11 and 12) and – the Fourth Part – regarding the composition of transportation service (article 13,14 and 15). In these article, evaluation on the demand of additional transportation without designated route (including taxi) and the planning of transportation needs, were described.

Evaluation on the demand of additional transportation is an activity to determine the number of vehicles in both opened and closed operational area, especially for the demand of transportation without designated route. This evaluation is to keep a balanced proportion between transportation service and its demand as well as to anticipate the growth of population and land development. This formulation is done by relevant authorities and with the consideration of taxi’ scope of operational area.

This regulation is actually to control public transportation service that aims at a balance between the need and the availability of transportation services, between capacity of land transportation and the number of public transportation, and also to ensure the quality of service of public transportation. There are certain types and specifications of permitted vehicles in any routes, especially for transportation with designated route.



However, these requirements are not limiting the number of business players but merely the number of vehicles for better service assurance. According to these rules, all business players have an equal opportunity to enter this industry as they meet all of requirements.

After series of evaluation, business players are obliged to obtain Transportation License Permit and Operational License Permit. Requirements and procedures of the permits applications are written in the Minister of Transportation Decree No. 35/2003 the Second Part, regarding the Transportation License Permit and the Six Part regarding the Operational License Permit in the articles 34-40 and the articles 64-69.

### **3.3 Fare Regulations**

Based on the article 42 the Law No. 14/1992, the structures and the classification of public transportation fare, is actually stipulated by the government. The government will address both the interest of public and their financial capacity or buying power as well as the interest of business players in public transportation sector. Furthermore, with the reference to the fares structures and classification, transportation companies will establish the fares, which will be more business-oriented. The fares for transportation in borderlines area will be formulated based on the bilateral agreement between neighboring countries.

Some considerations in formulating the fares are related to people buying power and government incentives (subsidy), in form of dispensation from vehicles tax and retribution obligation. The determination of taxi fares is based on some regulations, among others:

1. Government Regulation No. 41/1993, article 49 (1), "Taxi Fares are consisted of flag fall fare, base fare, distance fare and time fare, as calculated and appeared in the argometree" and in the article 49 (2), "Taxi Fares written point (1) is determined by the Minister".
2. Minister of Transportation Decree No. KM 35/2003
  - Article 29 (2) letter c: "Taxi Transportation Service shall have following characteristics:
    - Non-scheduled;
    - Using passengers vehicles such as sedan or station wagon and van (that has similar construction with sedan) with technical standards as determined by the Director General;
    - Fares are based on argometer;
    - Provide door to door services".
  - Article 29 (3) letter g: "Information on flag fall fare and other fares (base, distance and time) as well as additional fares shall be written in the inner side of the rear doors of the vehicles".

However, in many big cities in Indonesia, there are still many taxi operators or cooperatives providing their service without using argometer or based their fares on the above-mentioned regulations. Taxi in Batam as discussed previously, is one of the examples. In another places, the fares of taxi services are determined based on the zones by common-agreement between the business players.

This practices will be very create financial loss for the consumers. There is such a big gap between the argometers' price and the non-argometers one. In other words, consumers have to pay more than what is written in the regulation.

Throughout the year 2000-2004, fares determination system for road public transportation, including bus outside the capital city (DKI Jakarta) are increased. Taxi fare development in Jakarta in that period can be depicted from the table below:

**Table 1. Development of Taxi Fare in Jakarta, 2000-2004**

Description	Unit	2000	2001	2002	2003	2004	Growth
<b>Taxi</b>							
- Per km	Rp/Km	1.300	1.300	1.300	1.300	1.800	9,62
- Flag Fall	Rp/Km	3.000	3.000	3.000	3.000	4.000	8,33
- Waiting Time	Rp/jam	13.000	13.000	13.000	13.000	18.000	9,62

### 3.4 *Quality Regulations*

There are no specific laws for quality standard for taxi and the drivers. However, for particular route from Soekarno Hatta International Airport, the government through the Minister of Transportation Decree No. No. KM 15 year 1998 has set a standardized of taxi quality and the requirements of the drivers. The supervision of Soekarno Hatta International taxi is done by the Directorate General for Land Transportation.

Supervision and control of the taxi outside the airport are done by Transportation Services or Traffic Services in provincial level in coordination with other related institutions. The supervision includes following area:

- Technical requirements;
- Drivers' requirements;
- Quality assurance for facilities such as air conditioner, communication radio, argometer, and other equipments as stipulated by the laws.

However, monopoly practices in several point (namely in the Airport) allows taxi operators not to maintain the quality of their taxi. Most of the taxi are old cars, the air conditioners do not function properly, et cetera. Consumers may not have any preferences as there is a single taxi operator in the airport.

Queing Line is also a consideration for taxi user. There are 2 queing system, namely *nose out* system and *first in first out* system. *Nose out* system allows the consumers to select their taxi based on their preferences, while *first in first out system* ask the consumers to select taxi in the frontest queing line. At this point, consumers have no other alternatives. Even though it is not a monopolistic situation, still, the consumers have no choices. Consumers, in general, expect for an integrated management of taxi in the airport.

### 3.5 *Market Acces Rules*

Taxi is mode of public transportation that operates for long distance trip, as it does not have regional division. Taxi can carry people throughout the region, across the cities. As taxi knows no regional limitation, there are no such restriction for taxi to get its passengers throughout the regions.

However, this kind of practices may not be applied in some cities in Indonesia. In the airport of Batam city, there is only one taxi allowed to carry the passengers. In several ports, number of taxi operate are strictly limited. There are also area where “fee” is required prior to their operations. The fee is extremely high, up to the value of one brand new car.

Airports in Jakarta and Minangkabau show opposite direction. In these airports, all taxi operators are allowed to operate, reflecting healthy competition values. No entry barriers, no restrictions to get any passengers.

### **3.6 *Regulatory Oversight Mechanism(s)***

Supervisory mechanism for the implementation of the law in taxi market in Indonesia is written in Minister of Transportation Decree No.35/2003, Chapter XI regarding Control and Supervision, in the article 96 - 99. Control and supervision for road transportation and performance evaluation for transportation companies are periodically taken in order to improve service quality and for the smooth and controlled traffic. Control and supervision are implemented by legitimate and qualified staff, applied in certain locations and will not create any hassles for traffic safety and order.

Daily control and supervision are managed by Regent/Mayor in this case, through related office service heads. The results of this process will be used in the evaluation process. In case of increasing violation of regulation for licensed transportation, Directorate for Land Transportation may take a direct supervision and control. This mechanism may be applied even though there are no reports from provincial or regency level. Details on this supervisory and control mechanism are stipulated in Directorate General decision.

### **3.7 *Reforms and Effects***

Policies on taxi in Indonesia did not change a lot since the Law No.14 year 1992 on Traffic and Road Transportation and Government Regulation No.41 year 1993 stipulated. Ministry of Transportation Decree No. 35 year 2003 regarding the Implementation of People Transportation on the Road with Public Transportation is actually a policy to support the existing laws.

In KPPU view, regulation for taxi in Indonesia is sufficient. However, there are some weaknesses in its implementation. Anti-competition players are still found in several cities.

In order to supervise taxi regulation in Indonesia, in 2001 KPPU submitted suggestion and recommendation to the government on the practices of established-price or fare for taxi in Jakarta. Price establishment process, behavior of association and business players already indicated anticompetition practices that might disturb the process of providing efficient and effective taxi service. These practices will not support healthy competition amongst business players, which would actually encourage the better service to grow and provide benefit to the consumers.

In its recommendation, KPPU suggested that business players should stop the price cartel practice that may create consumers' loss. Price cartel is actually against the Law No. 5 year 1999 article 11 regarding cartel. All taxi service providers shall be given a freedom to set the price based on their capacity and business essence they might own. The freedom to set the price lower than other players and the intention to answer consumers needs are some examples of healthy competition mechanism. None of associations or business players are allowed to increase the price by entering the common agreement amongst the players will create consumers' loss and in principle is against the Law No. 5 year 1999.

Currently in Jakarta, we could find the better taxi fare than previous days. Since October 11, 2005, taxi fare in Jakarta was increased at the rate of 34,2%. The flag fall price increased to Rp 5000 from Rp.

4000 (increased 25%). Fare/Km jumped from Rp. 1.800 to Rp. 2.500 (increased 38%). Waiting time fare raised from Rp. 18.000/hr to Rp. 25.000/hr or increased 38%. However, no taxi operators are allowed to increase the price higher than these fares, but, they may create their price below this set price. The most recent news (March 23, 2006), DKI Jakarta regional government approved the taxi economic price that even lower than the old price. Six taxi operators in small and medium scale in the area of DKI Jakarta, Depok, Tangerang, and Bekasi have launched this economic price that more or less compatible with the old price. It seemed very probable to maintain taxi fare lower than the old price, as long as DKI Jakarta governor approve that taxi companies operated with argometer price to recalibrate their argometer below the old price. Currently, for economic taxi fare, the flag fall is Rp. 4.000 and kilometer price is Rp. 1.800/km. This is actually indicated that in Jakarta, there are some changes and regulation on tariff that leads to better and more proper fare for taxi business.



## ROMANIA

### 1. Reform and its effects. Interventions of the competition authority

Until 2002, in Romania taxi services were regulated at local level by each local public authority, by means of decisions of the local councils. At the end of 2002, the Parliament adopted a law regarding taxi and for-hire services; this law established the general rules of functioning for these services, enforced at national level.

The novelty of this normative act was the fact that, apart from their regular attributions, local authorities were now empowered both to define the dimension of the market by establishing a maximum number of licenses and to issue regulations regarding minimum and maximum tariffs for taxi services. Moreover, these decisions were to be taken upon consulting the respective professional associations.

Before this law was issued, at Bucharest level for example, these services operated according to norms approved by the General Council of Bucharest, according to which both the transport operator and the authorized physical persons were responsible for “establishing and observing tariffs”.

At the end of 2002, articles from the press signaled a possible agreement on tariffs among taxi companies in Bucharest, members of a professional association in the field; this information triggered an ex-officio investigation of the Romanian Competition Council (RCC).

The investigation, however, found no consistency in tariffs used by Bucharest taxi operators. When looking into the possible conditions that suggested the existence of an agreement, the RCC inspectors found out that while the taxi draft law was still in parliamentary debate, Bucharest City Council requested information from the respective association regarding tariffs considered by the main taxi operators as appropriate/ fitting to the current market conditions. In order to answer to this request, the association initiated a random inquiry among its members.

The competition authority analyzed the compatibility of this law with competition rules and identified several provisions that restricted competition on the market (as shown in par.2). Since the draft law was never submitted to the competition authority for screening, the respective anticompetitive provisions were only identified after the law came already into force, during the investigation.

In the meantime, signals were still received from other big cities in Romania regarding possible agreements among taxi operators. These suspicions were generated because according to the new law, the professional associations were consulted by the local authorities regarding the level of the applied tariffs; therefore their members met, discussed and exchanged information regarding costs and tariffs, under the protection of the law.

RCC led a sustained advocacy activity, informing the Government, the Parliament and the General Council of Bucharest about the anti-competitive aspects present in the law and proposing<sup>1</sup> their

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<sup>1</sup> The competition law in Romania allows the competition authority to propose modifications of the normative acts which contain provisions with an anti-competitive effect.

elimination. Our position was also presented publicly, in several articles, press releases and interviews in the mass-media, underlying each time the negative effects of the restrictions existing in the taxi law.

Discussions took place also with the professional associations in the field and with the legislators for finding less harmful solutions from the competition standpoint. RCC insisted on eliminating minimum tariffs in this field and refraining from consulting the professional associations on tariffs, number of licenses.

The parties proposed instead that such consultations should be replaced with a public debate on the website of the local public administration authority, in order to allow also the beneficiaries of these services to express their point of view.

Regarding the limitation imposed to the number of licenses, it was suggested that the limitation should be eliminated in two years time, in order to give stakeholders in this field the possibility to adapt/prepare themselves to face up to the competition on a free market, without such entry barriers. If necessary, such limitation might only be maintained in big cities where heavy traffic might justify it; as soon as traffic issues are addressed, this limitation should be also eliminated. This opinion was upheld by local authorities in small towns that considered limiting the number of licenses not justified.

In 2006 the Competition Council analyzed and issued advisory opinions regarding several draft laws for the amendment of the existing taxi law. One of these drafts even attempted to compile all provisions of previous drafts and the competition authority effectively involved itself, by participating in the debates at the Senate of the Romanian Parliament. Then again, after long debates in the commissions, the respective draft law was rejected in June 2007 by the Chamber of Deputies, the decisional chamber of the Romanian Parliament.

## **2. Regulatory framework - oversight mechanisms**

At the beginning of 2007, the law of local public transportation was adopted. This law included taxi and for-hire services in the local public transport services category. According to this law, the public transport service of persons operated by taxis or for-hire vehicles is organized as a public utility service which addresses transportation needs of the local and transiting population. RCC was requested and issued an advisory opinion regarding a draft of this law in its initial form, a form where taxi services were not included in the public transport services field. The draft was subsequently altered and its final form never made it back to the Council for advisory opinion.

By including this service in this category, the right of the local public administration authority to interfere and organize, regulate, control and coordinate taxi and for-hire services was confirmed by a regulation applied at national level. The sector regulator is the National Regulatory Authority for Public Utilities Services (ANRSC).

Meanwhile, more precisely in July 2007, the law regarding taxi and for-hire services was amended and completed by another law that was also not presented to RCC and which mostly maintained the anti-competitive aspects mentioned above.

As we mentioned before, on the basis of certain national laws which establish the general functioning rules for these services, the taxi and for-hire services are organized by the local authorities. When, in the respective town, there are no licensed operators for such services, the local council may approve that such service be performed by a specialized department of the City Council, based on a license issued by ANRSC, with owned or leased vehicles.

According to the law, the representative professional associations represent and protect the professional interests of the licensed operators for taxi and for-hire vehicles and those of the dispatchers in their relation with the public administration authorities.

The RCC considers appropriate for the representative professional associations of the licensed taxi operators, dispatchers and taxi drivers, and consumers' associations to be consulted in establishing the policies and strategies for the sustainable development of the transport services.

Nevertheless the Competition Council does not support, as we mentioned in the preamble of this material, the consultation of the professional associations in aspects regarding the mechanisms of the market functioning (tariffs, number of licenses/ operators on the market).

### **3. Regulatory framework - market access**

In order to obtain a license for taxi and for-hire services, an operator goes through two necessary steps. The first step is to obtain from the local public administration authority a transport authorization; upon fulfilling certain mandatory conditions. The authorization is valid for an indefinite period; still it needs to be reviewed every five years. The second step is to participate in the license assigning procedure organized by the local public administration authority. For taxi services, a unique and non-transferable taxi authorization is issued for every vehicle owned or leased.

The licensed operators for taxi and for-hire services may not "lend" or sell their authorizations, under any circumstances. The restriction limiting the number of taxi authorizations by the local public administration authorities as authorizing and regulatory authorities, introduced in 2003, was maintained even after the amendment of the taxi law.

Before this restriction was introduced, in Bucharest there were about 7,000 taxi authorizations. Their number increased in 2004 to 8,500 and at present there are 10,000 authorizations. Even if the regulators tried to develop this service and accommodate the ever-increasing demand for taxi licenses by permanently increasing the license threshold, there is, at present, a request from the taxi operators for an additional number of 1,500 authorizations.

At present, according to the new legislative framework, the dimensions of the market are defined on a 5-year period, upon consultation with the representative professional associations, and taking into account certain objective factors such as: traffic conditions, degree of pollution, use of less polluting means of transportation, supply/demand ratio, availability of station spaces etc.

The law gives also the possibility to establish the number of the taxi authorizations based on the conclusions of a specialized study, always upon consultation of the representative professional associations.

The recent amendments in the law brought several additional new features –a maximum number of four authorizations per 1,000 people in the authorizing jurisdiction (city, municipality etc). Moreover, the taxi and for-hire licenses are now also assigned for a five years period, with a possibility of renewal.

Licensed operators may perform taxi services on a permanent basis, in the authorizing jurisdiction, and occasionally, between the authorizing jurisdiction and other destinations, whether domestic or foreign. Taxi operators may only station in taxi stations located in the authorizing jurisdictions.

As part of its handling services, the Bucharest International Airport has assigned taxi services to only one company, upon a bidding process. Therefore, only the designated operator may station in the airport premises and pick up customers. However, one may always phone-book transport services from any



licensed operator. In practice, in such situations, whether arriving or departing from the Bucharest airport, most of the times the taxi in question will be occupied only one way, since the customer is not held responsible for the cost of the round-trip.

There are several differences in regulatory conditions between taxi services and other for-hire services. Taxis may use special tracks designated for public transportation vehicles, provided they do not distort traffic. Other for-hire vehicles do not benefit from such special conditions. Taxi services charge according to the covered distance and issue customers a receipt, whereas other for-hire services are booked and paid in advance and charge on an hourly or a daily basis.

The law forbids the usage of taxi vehicles for other types of for-hire services. Therefore for-hire vehicles do not need meters or two-way radios.

The taxi or for-hire driver has to fulfill certain conditions: to have a driving license for at least 2 years, to be medically and psychologically fit, to be at least 21 years old and to have a professional certificate. This certificate may only be obtained after passing a test upon graduation of a three-month course for professional training. The course teaches notions regarding the relevant sector legislation, social legislation, fiscal legislation, behavioral requirements in customer service, local geography, tourist information, technical vehicle specifications, road safety, first aid measures.

#### **4. Regulatory framework - quality of services**

Taxi licenses are granted only for vehicles less than 5 years old. After 5 years, upon expiry, the license may only be renewed once, for another 5 years and only if, at that time, the respective vehicle is less than 10 years old.

The procedure for assignment of taxi or for-hire licenses is score-based; points are granted<sup>2</sup> for the fulfillment of certain criteria such as: age of the vehicle, its classification according to the Euro pollution norms, size of the trunk, air conditioning, degree of safety for passengers (airbags, ESP etc), size of investment (if the car was bought or only leased by the operator), hours of service per day, additional technical endowments (GPS monitoring device, card payment device, protection screen between driver and passenger).

In taxi stands<sup>3</sup>, established by the local authorities, the law recommends a “first-in first-out” rule of thumb. Still, in practice, since tariffs are differentiated among operators and the vehicles differ also, such a rule is hardly respected by customers and therefore may hardly be enforced. But, it is forbidden for a taxi operator to monopolize a certain taxi station. Customers can phone-book a taxi, hail it in the street or pick it from waiting places.

In regulating the sector, local authorities need to take also into account the legal provisions regarding driving and the resting periods for the driver. Since the work period for a taxi driver cannot exceed 48 hours/ week or 12 hours/day, local authorities have to take these limitations into account while fulfilling their obligation to ensure the continuity of taxi services for 24 hours.

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<sup>2</sup> Maximum no. of points awarded for each criterion will be established by the decision of the local council, with the agreement of the existing representative professional associations.

<sup>3</sup> Taxi operator’s access in waiting places for clients can be free or charged with a fee established by the local authority.

## 5. Regulatory framework - fares

The total fare for taxi services is composed by the departure fare (according to the law, it should be equal to the tariff/1 km), the tariff per km and the waiting tariff. The maximum level of the distance tariffs – lei/km – is established by the local public administrative authorities empowered by law. Fares are determined, as shown before, after consulting local subsidiaries of the professional associations and according to the methodology issued by ANRSC. The distance tariff can be established also according to the time of day (day fare between 6.00 – 22.00 and night fare between 22.00 – 6.00), the general rule being that the night tariff should not be more than 50% bigger than the day tariff.

Taxi operators establish their tariffs freely without exceeding the maximum regulated level. Fares though should cover at least the investments made and the current expenses in performing the service.

In July 2007, the law was amended and the most serious restriction for the competition, minimum limits for tariffs, was eliminated.

## 6. Regulatory framework - organizational aspects

The dispatcher activity may take place only in the geographical area of the authorizing jurisdiction, by any legal person authorized to perform such activity. The dispatch services provide two-way radios to taxi operators, on the basis of a rental contract.

Use of dispatch services is mandatory for all taxi operators excepting operators in cities with less than 100 licenses; in such cases taxi drivers should use mobile phones to take customer calls.

The taxi dispatch contracts concluded with taxi operators have to include the established distance tariffs. The legal text states that “the taxis assisted by a dispatcher **can use unique tariffs** or differential tariffs according to the vehicle category<sup>4</sup>”. This legal provision creates the premises for several taxi operators using the same dispatch services to level their tariffs anticompetitively. The operators may use this legal provision as an excuse for potential anticompetitive behavior.

This anticompetitive provision was also one of the topics for debate between the competition authority and parties involved in regulating the sector. With all the efforts made by the Competition Council, this provision appears in the law as mentioned above.

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<sup>4</sup> In this case the law compels the dispatcher to inform customers about different fares, upon request of the customer.



## SUMMARY OF DISCUSSION

The Chair, Alberto Heimler, said that regulation of the taxi sector is widespread in OECD countries, but that many aspects of these regulations appear to lack a strong economic basis. Producers and consumers clearly have some competing interests: taxi drivers would like their vehicles to be fully occupied, while customers would like there to be empty taxis waiting for them. An issue for regulation is the differing patterns of taxi demand in different cities. In some cities, the telephone booking market is predominant. In others, most taxis are engaged by being hailed on the street by customers. In others still, the role of taxi ranks is more important.

Some market failure issues do arise in the taxi industry. In particular, consumers have little effective ability to compare prices and availability in the street hail market. As well, taxi drivers have an incentive to make routes as long as possible, once engaged. Even when a customer seems to be informed, drivers can make route longer than necessary. However, the size of market failure issues does not appear to be so large as to preclude substantial liberalization of taxi regulation. Many countries have tried to liberalize markets, but few have liberalized fully.

One way of achieving competition is to promote or enhance the ability to compete of providers of substitute products and services. To what extent can this happen with taxis? The hire car industry often provides an alternative to taxis in the dispatch services market. In Germany, in recent years, hire cars have acquired almost a third of the total market. Some taxi cooperatives have required members to confirm, as a condition of membership, that they neither operate nor participate in a car hire company, allegedly worried that some drivers might have a conflict of interest. While it is clear that hire cars provide competition to taxis, it is not clear that taxis provide equivalent competition to the hire car industry. Hire car prices might not be disciplined by taxi prices. Licences for hire case are generally not restricted in number, unlike taxi licences.

A delegate from Germany said there is no competition from car hire companies with regard to the taxi rank and hail market, as hire cars are not permitted to operate in this sector. However, in the pre-booked market, there is a vigorous competition. Taxi service prices are regulated and controlled by local authorities. However, although taxi prices are regulated, there is in practice some influence from car hire service prices on the regulatory determination of taxi prices. Prices have to some extent gone down as a result of competition.

### **1. Regulation of entry, drivers and prices**

The Chair turned to Denmark. The price of taxi services depends on supply and demand. In many countries the number of licence is fixed. In Denmark, as in many other countries, "The city council issues licences for a maximum period of 10 years taking into account the objective of ensuring that the general public in the entire municipality gets a satisfactory service". My question is how do municipalities ensure a satisfactory service? In principle this would mean the absence of rationing. The problem is that appropriate price movements can always eliminate excesses in supply and demand. Regulation is always at risk of falling short of market outcomes in maximising consumer welfare. What has been the Danish experience?

A delegate from Denmark noted that there are substantial differences in consumer needs between rural and urban areas. So municipalities must try to find some optimum capacity level. The Danish competition authority does not know how municipalities determine the appropriate number of taxis. The competition authority has just initiated an examination of restrictions on competition in the taxi sector. This will examine the nature of the taxi market and will see how it is performing under current legislation. One area that will be studied is the variables used by municipalities to determine the appropriate number of licences. Information will be collected via a survey.

The Chair said that France argues that number of licences should be increased as the price of licences goes up. Licences are tradable. The price of a licence depends on the number of existing licences and prospective income of taxi drivers, a function of prices and capacity utilization. Is there any formal way that this problem will be addressed in France? What should be done if the price of a licence is quite high?

A delegate from France noted that from one region to another, the situation can vary significantly. There are not enough taxis in Paris or its area, and the same is true in the south of France. However, in other parts of France, such as the centre, while there are also not enough taxis, the problem is not as severe. In some regions, as the population increases in age, taxis can become only form of transport that is accessible. This means that in these regions there is an increasing need for licences. The situation in France is complex.

The French authorities started by examining the situation in Paris. In recent years, the focus has been on constructing an indicator of the required growth in the number of taxi licences, based on review of several determinants of taxi demand, including changes in population numbers, movements at airports and main railway stations and the number of overnight stays in hotels. Based on the results of this indicator, around 100 to 200 new taxi licences should be issued annually in Paris to account for demand increases. However, this does not resolve the issue of whether the current stock of about 15,000 taxi licences is sufficient. The authorities have not yet completed a review of whether the current stock of licences in Paris is sufficient – this process is, however, now underway.

The question is being considered in a more general framework, with the Attali Commission having been established to review a number of potential impediments to economic growth. Regulated professions will form a specific area of review as part of the work of the Commission. The Commission will make recommendations by the end of 2007 on these issues and is expected to propose a number of areas of review in order to enable more far-reaching reform in this area to be achieved.

The Chair observed that in the United States' contribution there is an interesting table that shows the value of taxi licences in various cities of the world. The table shows extraordinary licence values in some cities, including Paris and Rome. But the price is highest in New York City, where the price is above US\$500 000. These values seem very high, because New York City does not seem to be a place in which taxis are in short supply. Perhaps one possibility is that taxi revenues go to the medallion owner while taxi drivers, who often do not own the medallion they use, live with subsistence revenues. Perhaps the political economy of liberalization would be easier in such circumstances.

A delegate from the United States said that there are not comparative surveys of taxi driver wages around the United States. The delegate's understanding was that taxi driver wages are not particularly high in any city, but may be higher in New York City than elsewhere. In addition, there is secondary tipping on top of fares that is not included in most studies. For the medallion owners, prices of medallions for independent and corporate cabs vary between US\$400,000 and US\$600,000 USD. In the U.S.' previous submission on taxis, New York medallion prices ranged from US\$225,000 to \$250,000. Since that time, there has been an increase in fares and a small decrease in the number of medallions. Medallion owners may have gained most from this price increase. The separation of medallion ownership from drivers is

relevant to the political economy of reform, but taking away the value would be difficult. Even from the perspective of drivers who are renting medallions, there might be dissatisfaction with plans to increase entry.

The Chair observed that in Italy, the opposition to deregulation was particularly strong last year. Taxi licences in Italy are granted only to individuals, not to companies. Rome has a licensing system that has been characterized by restricted entry for many years. A licence is currently worth €250 000. Politicians are reluctant to implement reform. Can you describe recent developments and what happened with the Bersani decree?

A delegate from Italy said that there has always been resistance to any attempt to change the number of licences. The intent of the Bersani decree was to tackle the problem at the national level, by enabling municipalities to assign licences through bidding processes. The decree also removed the restriction that limited individuals to holding only one licence. However, municipalities have been reluctant to make use of sunset clauses or implement liberalization.

The Chair noted that Belgium has tried to address the high licence value issue. It has ruled that, starting November 1 2006, new licences will no longer be tradable. However, this implies that a two tier market will develop and it is not clear what effect this measure will have. The chair asked for the Belgian delegate's assessment of this new measure.

A delegate from Belgium stated this reform had commenced very recently (1 September 2007) and that little information was, therefore, yet available as to its practical effects. However, it is clear that the goal of the changes is to end the current situation in which there is a parallel market for taxi licences – that is, that licences are traded privately as well as being issued by the three regional authorities.

The Chair introduced Rex Deighton-Smith to speak about the challenges of opening markets for taxis and, in particular, the question of whether it is desirable to pay compensation to licence owners for the loss of licence values resulting from reforms that liberalise entry.

Rex Deighton-Smith stated that, in jurisdictions in which entry to the taxi market is restricted, these regulatory restrictions are usually managed in a way that leads to increasing degrees of supply restriction (*vis-à-vis* a free entry solution) over time. The result is the development of substantial licence values. This, in turn, means that a move to free entry (or even substantially reduced degrees of entry restriction) will yield large financial losses to licence owners. The question thus arises as to whether governments should (or must) compensate licence owners for these lost values.

Several options are available to governments: they can mitigate the losses and spread them over time by adopting gradualist reforms. They can buy back the licences at market value (i.e. fully compensate the losses). They can provide *ex gratia* payments to only some licence-holders, in order to alleviate hardship. Alternatively, they can simply adopt open entry without providing any payments to former licence-holders. Complex considerations govern the choice between these alternatives.

The licence is an intangible asset which derives its value solely from regulatory policy (i.e. the policy of restricting licence numbers). Thus, licence owners should be able to see that the risk of future policy change is always present. Moreover, while substantial windfall gains have often accrued to licence-holders over time, these have generally have not been appropriated by the licence issuer. Just as windfall gains have not been appropriated, one can argue that windfall losses should not be compensated.

Second, if licence holders are paid the full (pre-reform) market value of the licence, producers in the market would effectively be appropriating most of the potential reform dividends. Paying compensation for licence values will also tend to make future reforms in other markets more difficult, due to the

probability that a precedent will be seen to be established. In the implementation of Australia's National Competition Policy, the major reform body argued strongly that losers from reform should not be compensated directly for their losses, with payments instead being limited to those adopted to facilitate transitions and ease cases of hardship.

There is evidence to suggest that governments will not usually face any legal liability to pay compensation. In New Zealand, entry to the industry was opened in one move, without compensation being paid and with no attempt by licence holders to seek legal redress. In Ireland, legal precedents set during the reform process established that there was no legal obligation on the government to pay compensation. Moreover, the reasoning adopted by the court would appear to be relevant to the reform context in many other countries.

Payment of compensation is sometimes seen as a way to facilitate reform by reducing resistance from vested interests. However, even if policymakers are willing to pay full licence value, they may still face resistance: Full compensation represents no more than the cashing out of an already very liquid asset and deprives the licence holder of the prospect of future capital gains. Because of this, licence holders are unlikely to be neutral as between a licence buyback and the continuation of business as usual.

Moreover, the high cost of paying compensation at market value itself forms a major impediment to reform. The costs of compensation would be around US\$7 billion in New York City and about US\$1.3 billion in Melbourne, Australia. The Irish and New Zealand examples show that achieving major reform – involving fully opening entry - without paying compensation is possible.

The hardship basis for compensation arises not just for political but also for moral reasons. Those who have purchased licences recently and taken on large debts may be harmed, as would those who, while not currently indebted, have purchased the licence as a means of funding their retirement income needs. That said, the question arises as to whether the position of the latter group differs from that of any other group who have invested in a high risk asset and failed to diversify their investment portfolio.

One possible approach – consistent with the “hardship based” rationale – is to make any payments to licence-holders at rates that are substantially less than the full, pre-reform value of their licences. Various formulae can be derived. For example, payments could be made that are based on the ingoing costs (i.e. the licence purchase price actually paid), indexed perhaps by the government bond rate. Alternatively, payments may be based on the evaluation of individual cases, with a requirement to establish that hardship would occur in the absence of payment being made. This approach was ultimately adopted in Ireland.

Approaches of these kinds are likely to be substantially less costly than paying full compensation and, as a result, more feasible. However, they will remain relatively expensive.

Finally, the option of mitigating the losses of incumbents by adopting gradualist reform exists. However, there are several drawbacks to this approach. Most obviously, it significantly delays the achievement of the benefits of reform. It also entails substantial risks that the reform process will be halted or reversed, due to strong lobbying from incumbents. This latter risk may be reduced by attempting to “lock in” a reform program in legislation and being transparent about the expected endpoint of reform.

If gradualist reform is to be adopted, issues of how to design the reform process necessarily arise. In particular, a mechanism to allocate new licences must be designed. Some jurisdictions have sought to defuse opposition to reform by providing additional licences only to existing licence holders (e.g. by a “one for one” scheme). Alternatively, licences can be allocated by ballot, or by auction. In either case, an important issue is that of who is eligible to participate.

Finally, the endpoint of reform must be established. Achievement of open entry conditions is the most appropriate endpoint. However, other goals have been put forward, including reaching some “target” number of licences, judged *ex ante* to represent the appropriate supply/demand balance. Experience suggests that such calculations tend, in practice, to greatly underestimate the true equilibrium number of licences. Other approaches include continuing licence issues until some pre-determined “service standards” have been met. Again, however, this approach has tended to see lower numbers of licences issued than a free-entry market would supply.

The Chair noted that, in Ireland, about 1,500 people ultimately received compensation after liberalization and invited the Irish delegate to explain what approach was used for determining who would receive compensation and how much they would receive.

A delegate from Ireland explained that the government set up a “taxi hardship panel” including a senior union official, a senior business person and a senior government official. The panel received 2,000 submissions, from a pool of only 3000 pre-reform licence-holders. The panel identified three broad categories who merited payments: widows of previous licence owners, people over 65 without other significant retirement incomes and people over 50 who had borrowed large sums to buy a licence. The average payment made was about €15,000, or about one tenth of the pre-reform value of the taxi licence. The overall cost to the Irish exchequer was about €17 million.

Invited expert Catherine Liston-Heyes noted that economists will make clear distinctions between market failure and income redistribution. It is important in policy design to separate the two considerations. The payment of compensation clearly represents an income redistribution, as licence-holders are not victims of market failure. However, in the case of taxis, there is often public sympathy with the position of the owner of the medallion. Once the public realizes that licences can be held by companies, there is likely to be less sympathy. Reform requires a supportive education campaign to inform the public.

The Chair agreed that redistributive objectives do need to be addressed as part of the reform process. He noted that, in Hungary, there is free entry and prices can adjust downwards in the face of new entry. The chair invited the Hungarian delegate to comment on whether this has happened in practice and whether price competition is a permanent feature of the market?

The delegate from Hungary stated that there has been major entry in recent years in the capital. No quantitative analysis has been carried out, but about one year ago, there was major entry to the airport taxi market, through a bidding process. The prices realised at the end of the bidding process were substantially lower than the standard prices prior to the new entry. In Budapest, some new entrants exited after a few years, suggesting prices are fairly competitive.

The Chair stated that, in Switzerland, taxi licences are neither tradable nor transferable. Regulation occurs at the canton and municipal levels. This leads to a diversity of rules and regulations. In order to give an overview of the regulation of taxi services in Switzerland, the Swiss submission illustrates the regulation in force in Zurich, Bern, Basel and Lausanne. While in some of these cities regulation is more restrictive than in others, in Zurich, Bern and Basel the number of licences is unrestricted. In Bern prices are also essentially unregulated. The chair asked the Swiss delegate to address two questions: whether prices in Bern are different than in the rest of the country and what is the rationale for the requirement introduced by some municipalities that applicants for a taxi licence must have at least one year of experience as a taxi driver. Under these conditions is entry into the taxi market really free?

The delegate from Switzerland stated that anecdotal evidence and personal experience indicate that prices are largely similar across the cities. In Zurich, where prices are fixed, all taxis have the same prices.



In other cities, there is variation in prices. The same is true for quality. In Zurich there seems to be little variation in quality. In Bern and other cities, there is more variation in quality. Small taxis may have lower prices. Conditions vary more in the more liberal cities. This seems to be a positive effect of competition, as a wider range of market offers (i.e. price/quality combinations) probably responds better to the range of consumer preferences. In Bern, there do not appear to have been any major problems associated with complete liberalization.

Regarding the experience requirement for licence applicants, it is usually the case that applicants are first employed by another company as a taxi driver before seeking a licence. This has not led to any significant constraints, because there are many small companies that exist and they do not seem to coordinate to block entry. Moreover, experience gained in one city is acceptable by the regulatory authorities in other cities.

The Chair noted that, in Turkey, taxi drivers are chosen from among members of the Chamber of taxi drivers and asked how a driver can enter such a Chamber and what are the criteria for being given a taxi licence.

The delegate from Turkey stated that the criteria for becoming a member of the chamber are that a driver must be Turkish national or foreign national involved in trade with Turkey and be a taxpayer. The criteria for obtaining a taxi licence were determined by a 1986 decision of the Council of Ministers. According to that decision a driver who chooses to be a taxi driver should do so full time and be a member of a chamber. Licences are awarded via a sealed tender process.

The Chair noted that, as in other many other countries, entry to the taxi industry in South Korea is regulated at the local level. However, there are requirements for a taxi business licence, including the minimum number of registered vehicles, the size of the garage and other conditions regarding subsidiary facilities that may be unique to Korea. For example, for corporate taxi businesses, those in Seoul and Busan should have more than 50 vehicles while those in other cities the minimum number is 30. The minimum garage size is 13 by 15 meters.

In addition, they must have operations facilities such as business offices. In the case of individual taxi businesses, the garage size must be 10 by 13 meter and the driver must have no traffic accident record during the past five years of driving business vehicles and no accident record for at least ten years of driving private cars as a hired driver. He must also have fewer than three instances of being fined for violation of his duties as a professional driver over the past three years. In addition, the driver's accumulated penalty points, imposed for traffic violations under the Road Traffic Law, must not exceed 180.

The chair requested further clarification of the underlying purpose of the fleet and garage size requirements, as well as the implications of breaching the requirements regarding traffic fines or accidents.

The delegate from Korea responded that the garage size requirement ensures that vehicle repair facilities are maintained, while the fleet size requirement is imposed in the interests of ensuring minimum service standards, in terms of timely response to bookings. In the case of breach of the traffic law requirements, the taxi licence will be cancelled, but can be reapplied for after a certain minimum time has elapsed.

The Chair noted that, in Japan, supply restrictions were abolished in February 2002 and a free entry regime now exists. However in Tokyo and Osaka one must be a member of register before becoming a taxi driver. The Japanese delegate was asked for information on how one can be entered on a register? The Chair also noted that the Japanese briefing for the meeting indicates that free entry has led to the

introduction of a large variety of fares, including long-distance discounts and flat fares. However, Japan has in place a unique system of price regulation, where minimum prices are also regulated. The Chair asked what is the reason for this and what have effects been.

The delegate from Japan confirmed that demand and supply balancing regulations were eliminated in 2002. Thus, new entry can now occur, even if there is a sufficient number of taxis in a given area. Quality regulation remains, including a requirement that the potential entrant has an accident free driving record for a certain period. In Tokyo and Osaka, the two largest metropolitan areas, most consumers hail taxis on the street. In such cases, consumers are less able to exercise choice between providers. As a result, quality regulation in these areas includes additional requirements such as geographical knowledge.

A regulated system of fixed prices did previously operate in each city. However, price was deregulated several years ago, to allow for a variety of fares, and allow operators to better respond to consumer needs. Requirements for fare changes to be approved have been maintained, but an automatic approval system has been introduced for any fare within a price range announced in advance, in order to speed fare approval procedures. The purpose of minimum fare level is to avoid dumping. Consistent with this, fare applications set below the minimum level can still be approved if examination shows the fare would cover all of the operator's costs.

The Chair stated that the Indonesian competition authority suggests in its contribution that prices of taxi services be freely and independently set in the market. However, current practice in many big cities appears to be that taxi fares are determined by agreement between taxi service providers. The chair asked the Indonesian delegate what were the considerations that led the KPPU not to intervene with the antitrust provisions against such price agreements?

The delegate from Indonesia responded that tariffs are actually controlled by governments, with input from the association of taxi companies. Airport taxis form a separate class, with separately regulated fares. The competition authority has proposed opening taxi market to additional companies.

The Chair noted that, in the Czech Republic, price regulation was introduced in 1997, probably because of dissatisfaction with the then current unregulated arrangements. He asked the Czech delegate what prompted the reform and how has entry been regulated.

The delegate from the Czech Republic stated that, prior to 1997, fares were high and quality poor. The government decided that municipalities should be empowered to set prices. This was done in three towns. However, initial compliance with the set maximum price was poor. In 2000 actual prices were found to exceed the maximum in one quarter of cases checked by the regulators. Compliance has since improved, to around 90%.

Entry to the industry remains unrestricted, but applicants must be licensed and must meet licensing criteria including demonstrating knowledge of the geography of the city. Cities are also empowered to regulate various quality issues, including even the clothing to be worn by taxi drivers. One driver filed a complaint because he was forced to wear shoes, however, the competition authority did not consider this to be a barrier to entry. Prague has chosen to regulate the required size, number of seats and color of cars used as taxis. This led to a complaint that only certain car manufacturers are making the color chosen by the city, suggesting the city was preferring certain car producers over others.

The Chair pointed to the significant variations in approaches to taxi regulation among local authorities in the United Kingdom: some allow completely free entry into the local taxi market (subject to new drivers and vehicles complying with local vehicle and driver requirements). Others have a policy of imposing a limit on the number of licences. Some others have ado

pted an explicit growth policy. The Office of Fair Trading has released two reports on taxi regulation, in 2003 and 2007. Some significant changes in taxi regulation were made in response to the 2003 report. The chair requested the delegate from the United Kingdom to provide further information on the recent changes and to comment on the prospects of full entry deregulation in the UK.

The delegate from the United Kingdom reported the first of the OFT reports recommended that those local authorities that currently regulate entry to the taxi market should cease to do so. It accepted the case for retaining fare regulation and argued for maximum fares to be set and published by the regulator. In response, around one third of the local authorities that had previously restricted entry ceased to do so. The more recent of these reports reviews evidence in relation to the resulting changes. This was based on an independent evaluation of the changes.

The evaluation found that service quality had generally been maintained, while waiting times had been reduced due to an increase in the supply of taxis, particularly at night. However, there was no evidence of fare decreases occurring.

The evaluation found that consumers had reaped benefits valued at £2 – 4.5 million due to reduced waiting times and associated substitution toward taxis from other transport modes. However, producers suffered losses of between €12 – 31 million due to having to wait longer between paying customers. Thus, the net impact of the deregulation of entry was a loss of productive efficiency of between £8.5 million and £29 million.

The UK delegate stated that the most likely reason for this loss of productive efficiency in the sector is that whilst quantity restrictions were removed price restrictions, in the form of regulated maximum price levels, were retained by local authorities. Why did deregulation not lead to price reductions?. Setting taxi fares in the UK is often a result of negotiations between the local authorities and the taxi trade. There is anecdotal evidence that static or slightly increased fares were provided by regulators as a *quid pro quo* to assure taxi trade acquiescence to the reforms. Taxi licence-holders did not seem to realize the effect of raising price on entry.

It was argued that, where quantity restrictions are removed but price restrictions – albeit on maximum prices - are retained, new entrants will be likely to be attracted to the market by the existence of the price restrictions, and attracted in numbers to the point of oversupply (particularly given evidence that the elasticity of demand with respect to waiting times appears to have been low), and such new entrants will tend to charge the regulated maximum price. The appropriate solution therefore would be for local authorities to lower regulated fares to a point nearer market clearing levels.

The Chair noted that it is important to remember that a reduction should be followed by increased demand. In Norway the competition authority has a very important role in the taxi industry. In particular, the competition authority has played the role of a price controller, fixing prices for taxi services in some cities. More recently the competition authority has chosen not to fix prices in cities where there are more than two dispatch services. Does this imply a belief on the part of the competition authority when there are two dispatch services there is already enough competition in the market to effectively control prices? How can there be price competition if quantities are fixed? Furthermore, in contrast to the situation in other jurisdictions, in Norway local authorities establish the number of dispatch services and any individual licensee is required to join a dispatch service. Do municipalities promote competition or are they generally captured by taxi drivers interests?

The delegate from Norway responded that two means of promoting competition have been identified: To improve market access rules and improve information to consumers. The competition authority told local authorities that lowering entry barriers for new dispatch services could be an important means of enhancing competition. This could be achieved by allowing a dispatch service from a different market to enter, or by reducing the minimum number of affiliated licences required for a dispatch service to be allowed to operate. Means could also be implemented to enhance the effective degree of mobility between dispatch services of taxi licences. If a smaller dispatch service chooses to compete on price and attracts licensed drivers from another service, that would promote competition.

Another area of focus has been how to increase awareness and understanding of service conditions on the part of consumers. The fare structure is complex, and difficult to understand both before and after a trip for many consumers. The authority has worked with the consumer authority to attempt to design a reference price system with prices shown on taxis, and to make price competition work at taxi ranks. Currently, it is in negotiation to change the basis of fare calculation from a single type (time or distance) to include both (i.e. time and distance.)

The Chair noted that, in Romania in 2002, the Competition Council started an investigation of an alleged price fixing conspiracy among taxi drivers in Bucharest, but found no evidence. In 2007 a new law was passed that gave municipalities the right to set the number of taxi licences and to set maximum prices. There are more than 10,000 licences in Bucharest and a number of different dispatch services. The law does not seem to be very relevant, since there is quite substantial competition, prices at least in Bucharest differ, while all taxis are obliged to associate themselves with dispatch services (making it easier for consumers to compare prices). The Romanian delegate was asked to explain why the law was passed.

The delegate from Romania responded that there are substantial differences in the nature of the taxi market in different geographical areas, a point also raised by France and Great Britain in their submissions. In particular, large cities are very different from rural areas. In some of these markets there is monopolistic competition. It is commonly stated that supply restrictions clearly benefit producers. This happens when demand is inelastic, however, in many towns, demand is highly elastic. Perhaps as a result, Romania has experienced relative price stability in some markets, in a highly inflationary environment.

The law in question regulates public transportation in general, rather than being specific to taxis. Discussions on regulating this sector started around 2002-3. Probably the primary objective, at least initially, was to address how to deal with informal or black market operators.

The Chair noted that, in the Netherlands, a new taxi law came into effect in January 2000 and the law was then slightly revised in 2002 and again in 2004. First national licences were introduced and then a free entry regime was established together with maximum price regulation. Prices did not decline much under the new policy. The Dutch delegate was invited to comment on why prices did not decline and what role anticompetitive agreements may have played

The delegate from The Netherlands stated that before 2000, the Dutch taxi market was highly regulated, particularly through the supply of licences being fixed. Individuals wishing to drive taxis were willing to pay large amounts for affiliation to a dispatch network. Licences were valid for specific regions only. A result of this was an inadequate supply of taxis. The reforms thus involved abolishing capacity regulation. Now every person can obtain an operator licence, subject to conduct requirements. At the same time, a maximum fare was put in place, while geographical restrictions were abolished. Quality restrictions continued.

Reviews of the impacts of these changes indicate that not all consumers were better off, particularly because fares have increased somewhat. Several possible explanations for this exist: (1) a lack of

transparency, with the tariff structure depending on a starting tariff, a tariff for distance and tariff for minutes inside a taxi. The prices of these elements are indicated on the side of the taxis, and only in very small letters. (2) In the Netherlands, taxis usually wait in line. It is difficult for consumers to choose taxi that is not first in line. Taxi driver has no incentive to lower price in this circumstance. (3) The regulated maximum price might work in practice as a target price, even without coordination among drivers.

Recent changes to taxi regulation have included requiring a driver's exam and setting standards for language proficiency and geographical knowledge. Taxi ranks were changed so that taxis could drive off independently without the first taxi leaving. Despite this, the "first in, first out" behavior has not yet changed in most places. Some price differentiation does exist, with the price of ride in larger taxi likely to be higher than others.

The Chair noted that Sweden had deregulated its taxi market on 1 July 1990, thus, it has substantial experience of a taxi market exposed to competition. There seem to have been some problems as well as positive effects. The taxi market in Sweden can be described as consisting of a large number of local taxi markets with very different conditions. The volume of customers varies greatly between urban and sparsely populated areas. This has to be taken into consideration when deciding whether the reform has been a success or not. In addition, very different customer categories are dominant in different parts of the country. In some sparsely populated parts of the country, publicly funded transport such as transport for old people and transport for medical care (both paid by municipalities) accounts for 90 percent of all taxi transport. The Swedish delegate was invited to comment on the underlying reasons for the reforms and to comment on whether it has been a success. In particular, are consumers informed about prices? Does quality differentiation in cars lead to price differences?

A delegate from Sweden stated that, before 1990, services were heavily regulated. The reason for deregulation was the experience of bad service and long waiting times. The post-reform situation is regarded as an improvement, particularly because of the disappearance of major criticisms from consumers about availability of taxis. Taxi drivers have not sought re-regulation. Companies compete with fixed prices on common routes (e.g. from Stockholm and other cities to airports). Consumer protection laws require fares to be posted both outside and inside the taxi. Using the Internet, consumers can calculate what the costs should be to go from one point to another.

The Chair recalled that, in the 2001 roundtable discussion on road transport the Irish delegate reported that, as in Italy, most taxi licences are held by individuals. That generated an articulate and well-organised political bloc, which made it difficult for politicians to take on the issue and introduce change. However, one of the lessons of the Irish experience is that if entry is limited and demand grows, ultimately consumers start to be very vocal and pressure politicians to change. However, it can take a long time and it is a slow process. In Ireland until the late 1970s there were no limits on taxi numbers. Regulation was introduced in 1978 which allowed the local municipalities to regulate taxi numbers in their areas. No new licences were issued for a period of about 14 years. At that time the Minister intervened, issuing a number of extra licences and giving the power back to the local authorities. Again, they did not issue new licences. Now there is free entry and full competition in taxi services. Is it fair to argue that the lesson from Ireland is that competition can make it onto the political agenda only if the market situation becomes so bad that everybody, except taxi drivers, are unsatisfied. How can we convince central and local governments of the benefits of competition?

The delegate from Ireland said that taxi services and liberalization were on the public agenda for many years before quantitative entry restrictions were finally abolished in 2000. Some piecemeal reforms occurred during the 1990s: There were 150 new licences issued from 1991-1995 and 700 licences for wheelchair accessible taxis issued in 1997-1998. However, this expansion in supply severely lagged demand growth and the overall effect was that supply became increasingly constrained. By 2000, there

were still only about 4000 taxis and licence values were in the vicinity of €120,000 - €150,000. A proposal for more substantial reform was advanced in the late 1990s by the minister of the day, involving the issue of an additional licence (without payment) for each licence currently held, as well as the issue of another several hundred new licences to non licence-holders. However, this was challenged by hire car licence-owners and the courts found that the government had no authority to issue limits on the number of taxis.

The taxi unions were unhappy. However, the government resisted pressures to re-regulate. Taxi drivers began to demand independent regulation. They thought if they got an independent regulator, quantity limits would be reimposed. However, while an independent taxi regulator was introduced in 2003, with responsibility for determining fares and entry, this has not occurred. In fact, the number of taxi licences has quadrupled since 2000.

The initial fee for a new licence is €6300. The whole country is one taxi meter area. The regulator seeks to mimic a totally competitive market. Vehicle and driver standards are in place that were not present previously. One of the biggest taxi firms has 860 cars in Dublin. Deregulation freed up the market. More drivers meant more clients. Those who formerly rented plates then bought their own licences. Dispatch centres have grown.

Previously, regulation was fragmented. Local authorities, police forces and the Department of Environment were all involved in regulation. Consumers were badly served. A secondary market started to develop through the appearance of "cosies," people who rented a taxi for one shift per day (keeping driver seat warm.). The market is now regulated properly and consumers are happier. For individual consumers, what they say is that price is not so important but what is important is reliability and availability.

The conclusion that can be drawn from the Irish experience is that deregulation works, but must be accompanied by strong and independent regulation. It is important to maintain maximum fare regulation. Consumers are not well represented and are unable to speak with a coherent voice. Taxi consumers are vulnerable: they face significant search costs and information asymmetry exists between drivers and clients, particularly where tourists are concerned. If the custom is for the consumer to take the first taxi in the queue, it is difficult to introduce price competition. However, the Irish experience suggests that entry restrictions cause more problems than they solve.

Michel Violland of the Transport Research Group in ECMT noted that his group had previously arranged a meeting of transport experts which found that there were a number of features of the taxi market that made full deregulation difficult. Fare deregulation appears to be a particularly problematic area. Production costs increase as entry limits are removed, as the drivers have lower occupancy rates. They do not realise that lowering prices will increase the number of taxi clients and hence may respond to increasing production costs by raising prices. Where a move to free entry is contemplated, Mr. Violland suggested that a reform must occur in stages, with gradual deregulation of licence numbers. There is a need for a detailed and accurate monitoring at times of deregulation to see whether results are up to expectations. For example, after complete deregulation, it may be important to reintroduce fare regulation. There are various special markets that require development, such as services for handicapped and rural persons and provision of services to the suburbs in some cities. To conclude, there may be an argument for a Europe-wide policy to be adopted in the context of single market.

The delegate from Chinese Taipei noted that, in comparison with many of the countries who have discussed their systems of taxi regulation, the taxi industry in Chinese Taipei is not highly restricted. Competitive forces are active. For example, when an airport sought to give exclusive right to select taxi companies in exchange for monthly fee, competitors organized a site next to airport, with passengers

walking from a neighboring area. Many networks have power, leading drivers to join them. For example, drivers have often chosen to join networks that may help them to avoid traffic tickets.

Catherine Liston-Heyes noted that an important result of deregulation in general is that it gives rise to innovation in market structures, as well as in provision of services. Entry regulation is often promoted as a means of addressing externalities associated with the provision of taxi services. However, if new market structures arise as a result of deregulation of entry, it is possible for these externalities to be internalized via the market.

The delegate from South Africa stated that, in developing and middle income countries, the questions of regulation and deregulation are particularly complex. In south Africa, up to 70% of trips to work are by taxi<sup>1</sup>, giving them large revenues. The economic significance of taxi industry is very high, with respect to both local and central government. The industry is largely unregulated. Owners seek control over taxi ranks, that give them control over routes. There is a degree of formal recognition of control of ranks. Rivals are excluded by violence. Even bus companies can be threatened. The government has been trying to agree to specifications for new taxis, to buy back old taxis and require operators to purchase new, approved taxis. However, taxi drivers are generally reluctant to replace existing 16-20 seater vehicles with the approved 10 seater designs. So take up has been poor.

The delegate from Brazil emphasized that this is a complex subject and it would be very difficult to find best practices here, especially given that demand elasticity depends very much on the public transport services that are provided. Most important is not to block innovation which may give rise to new services. One factor is to ensure price differentiation is not prevented by regulation.

The Chair concluded that market failures can be subtle. The distributional issue that was mentioned is one that is politically sensitive and of great importance. The Chair expressed his belief that the elasticity of demand is likely greater than taxi drivers believe it to be, such that reduced prices would lead to sufficiently increased demand to raise profits.

Politically, the Irish experience shows how difficult it is to come to liberalization. Dissatisfaction must be high in order for reform to be possible. However, limits on the number of taxis tend to lead to high levels of consumer dissatisfaction, while easier entry tends to provide improvements in service for consumers. The UK experience suggests that maximum prices should decline after free entry is adopted. In many cases, little innovation in services has been observed. However, this may result in part from continuing regulatory restrictions. Innovation in pricing and dispatch services is possible, as is the use of satellite based maps to enhance driving quality.

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<sup>1</sup> This refers to an arrangement that resembles a mini-bus arrangement in many respects, as noted below.

## COMPTE RENDU DE LA DISCUSSION

Le Président, Alberto Heimler, souligne que si le secteur des taxis est largement réglementé dans les pays de l'OCDE, de nombreux aspects de cette réglementation ne semblent pas fondés sur des arguments économiques solides. Les intérêts des prestataires de services et des consommateurs sont clairement divergents : les chauffeurs de taxi ciblent un taux d'occupation maximum de leurs véhicules, tandis que les clients attendent une offre plus abondante de taxis. L'un des enjeux de la réglementation repose sur les variations dans la demande de taxis en fonction des agglomérations : dans certaines villes, le marché est dominé par les centraux téléphoniques ; dans d'autres, les taxis sont majoritairement hélés dans la rue, tandis que les stations de taxis jouent un rôle majeur dans d'autres villes.

Le secteur des taxis est affecté par certaines défaillances de marché. Ainsi, les consommateurs n'ont, dans la pratique, que très peu la possibilité de comparer les prix et la disponibilité des taxis sur les marchés où ces derniers sont hélés dans la rue. Par ailleurs, les chauffeurs de taxi sont incités à effectuer des courses aussi longues que possible et même si le client semble informé, le chauffeur peut rallonger inutilement le trajet. Toutefois, l'ampleur de ces défaillances de marché ne semble pas telle qu'elle fasse obstacle à une libéralisation massive du secteur. Si de nombreux pays ont tenté de déréglementer le marché des taxis, rares sont ceux qui sont allés jusqu'au bout de cette démarche.

L'une des solutions pour favoriser la concurrence consiste à améliorer la compétitivité des fournisseurs de produits et de services de substitution. Dans quelle mesure cette méthode est-elle applicable aux taxis ? Les voitures de location font souvent office d'alternative aux taxis sur le marché des centraux téléphoniques. Ces dernières années en Allemagne, les véhicules de location ont conquis près du tiers du marché. Certaines coopératives de taxis exigent de leurs membres, pour approuver leur adhésion, la confirmation qu'ils n'exploitent ni ne travaillent pour une société de location de voitures, arguant d'éventuels conflits d'intérêts. S'il est évident que les voitures de location font concurrence aux taxis, l'inverse n'est pas certain. Ainsi, le prix des locations de voiture pourrait ne pas être influencé par celui des services de taxi. Par ailleurs, les licences pour les voitures de location ne sont généralement pas soumises à un quota, contrairement aux licences de taxi.

Un membre de la délégation allemande fait valoir que les sociétés de location de voiture ne représentent pas une concurrence sur les marchés dominés par les stations de taxis et les taxis hélés dans la rue, dans la mesure où les voitures de location n'ont pas accès à ces marchés. En revanche, la concurrence est vive sur le marché des centraux téléphoniques. Les prix des services de taxi sont réglementés et contrôlés par les collectivités locales. Cependant, en dépit de cette réglementation, les tarifs des services de location de véhicules ont, dans la pratique, une certaine influence sur la fixation des prix des services de taxi par la réglementation. La concurrence a permis, dans une certaine mesure, de faire baisser les prix.

### 1. Réglementation de l'accès au marché, déterminants et prix

Le Président évoque le cas du Danemark. Le prix des services de taxi est fonction de l'offre et de la demande et, dans de nombreux pays, le nombre de licences est fixe. Au Danemark, ainsi que dans de nombreux autres pays, « *Le Conseil municipal délivre des licences limitées à une période maximale de 10 ans, afin de s'assurer que l'ensemble de la population de la commune bénéficie d'un service satisfaisant* ». Mais comment les communes peuvent-elles garantir un tel niveau de service ? En principe, en évitant tout rationnement. Des variations de prix appropriées peuvent éliminer les excès au niveau de



l'offre et de la demande. Toutefois, la réglementation risque toujours de ne pas optimiser les avantages pour le consommateur de façon aussi efficiente que le marché. Quelle a été l'expérience du Danemark ?

Un délégué du Danemark remarque que les besoins des consommateurs sont particulièrement différents entre zones rurales et zones urbaines. Les communes doivent donc essayer d'optimiser les capacités. L'autorité de la concurrence danoise ne connaît pas les méthodes employées par les communes pour déterminer le nombre de taxis adéquat. Elle vient de lancer un audit des obstacles à la concurrence au sein du secteur des taxis, qui examinera la nature du marché et ses performances dans le cadre de la législation actuelle. Cet examen portera plus particulièrement sur les variables utilisées par les communes pour déterminer le nombre adéquat de licences. Les données seront recueillies au moyen d'une enquête.

Le Président observe que la France préconise une augmentation du nombre de licences parallèlement à la hausse de leur prix. Les licences sont négociables : leur prix est fonction du nombre de licences existantes et des perspectives de revenus des chauffeurs, qui sont fondées sur les prix et le taux d'utilisation des capacités. Cette question va-t-elle être réglée de manière officielle en France ? Que faire lorsque le prix de la licence est relativement élevé ?

Un délégué de la France remarque que la situation peut varier sensiblement d'une région à une autre. Ainsi, l'offre de taxis est insuffisante dans Paris et la région parisienne, de même que dans le sud de la France. En revanche, dans d'autres régions telles que le centre, le problème est moins grave, même si l'offre est également trop restreinte. Dans certains cas et compte tenu du vieillissement de la population, les taxis peuvent devenir le seul moyen de transport accessible. Dans ces régions, le besoin de nouvelles licences est donc de plus en plus important. La situation du marché français des services de taxi est complexe.

Les pouvoirs publics français se sont d'abord penchés sur les problèmes rencontrés à Paris. Ces dernières années, les efforts se sont concentrés sur l'élaboration d'un indicateur du nombre nécessaire de nouvelles licences, sur la base de l'examen de plusieurs variables de la demande de taxis, notamment l'évolution démographique, le trafic aux aéroports et dans les principales gares et le nombre de séjours de plus d'une nuit dans les établissements hôteliers. Selon les résultats obtenus grâce à cet indicateur, 100 à 200 nouvelles licences de taxi devraient être émises chaque année à Paris pour répondre à la hausse de la demande. Néanmoins, le problème de savoir si le nombre actuel de taxis (15 000 environ) est suffisant n'est pas réglé pour autant : une procédure d'audit sur la question est en cours.

Aujourd'hui, cette question est analysée dans un cadre plus général, la commission Attali ayant été mandatée pour évaluer un certain nombre d'obstacles potentiels à la croissance de l'économie française. Les professions réglementées constituent l'un des secteurs clés étudiés par cette commission, qui devrait émettre des recommandations sur ces sujets fin 2007 et proposer plusieurs pistes de réflexion pour favoriser une réforme plus ambitieuse de ce secteur.

Le Président constate que la contribution des États-Unis contient un tableau intéressant qui répertorie les prix des licences de taxi dans différentes villes du monde. Dans certaines agglomérations, telles que Paris et Rome, les prix des licences atteignent des montants très élevés. New York se distingue par la licence la plus chère, avec un prix supérieur à 500 000 USD. Or ce prix semble d'autant plus élevé que l'offre de taxis est relativement abondante à New York. Cette cherté tient peut-être au fait que les revenus générés par les services de taxi sont perçus par le titulaire de la licence, alors que les chauffeurs de taxi, qui ne sont généralement pas propriétaires de la licence qu'ils utilisent, bénéficient d'un revenu de subsistance. Dans ces conditions, l'économie politique de la libéralisation serait peut-être plus efficace.

Un délégué des États-Unis explique qu'il n'existe aucune étude comparative sur les salaires des chauffeurs de taxi aux États-Unis. Selon lui, leur rémunération n'est, en règle générale, pas

particulièrement élevée mais pourrait être supérieure à New York. Par ailleurs, le pourboire qui majore le prix de la course n'est pas pris en compte dans la plupart des études. Le prix d'une licence pour les chauffeurs indépendants et les sociétés de taxis est compris entre 400 000 et 600 000 USD. À titre de comparaison, dans le dernier rapport fourni par les États-Unis sur le secteur des taxis, les prix des licences à New York s'échelonnaient entre 225 000 et 250 000 USD. Depuis, le prix de la course a augmenté, tandis que le nombre de licences a légèrement diminué. Ce sont les détenteurs de licences qui pourraient être les principaux bénéficiaires de cette hausse des tarifs. S'il est essentiel, dans le cadre de l'économie politique de la réforme, d'établir la distinction entre titulaire de la licence et chauffeur, il est difficile de ne pas tenir compte de la valeur de cette dernière. Même parmi les chauffeurs qui louent leur licence, les projets visant à augmenter l'offre de taxis pourraient rencontrer une certaine hostilité.

Le Président indique qu'en Italie, l'opposition à la déréglementation était particulièrement vive l'année dernière. En Italie, les licences de taxi sont en effet uniquement accordées aux particuliers et pas aux entreprises. Le système d'octroi de licences de Rome s'est distingué pendant de nombreuses années par des restrictions à l'entrée. À l'heure actuelle, une licence vaut 250 000 EUR. Les pouvoirs publics hésitent à mettre en œuvre des réformes. Qu'en est-il de la situation aujourd'hui et quelles ont été les conséquences du décret Bersani ?

Un membre de la délégation italienne fait remarquer que les tentatives pour modifier le nombre de licences se sont toujours heurtées à une forte résistance. Le décret Bersani avait pour objectif de mettre un terme à cette situation au niveau national, en permettant aux communes d'attribuer des licences *via* un processus d'appel d'offres. Il a également aboli la disposition ne permettant de détenir qu'une seule licence par personne. Cependant, les communes sont peu disposées à utiliser les clauses d'extinction ou à libéraliser totalement le marché.

Le Président souligne que la Belgique a tenté de régler la question du prix élevé des licences. Les autorités belges ont en effet décidé qu'à compter du 1<sup>er</sup> novembre 2006, les nouvelles licences ne seraient plus négociables. Toutefois, cette mesure pourrait se traduire par la création d'un marché dual, dont les conséquences sont incertaines. Le Président interroge le délégué belge sur cette question.

Un délégué de la Belgique indique que cette réforme n'est entrée en vigueur que très récemment (au 1<sup>er</sup> septembre 2007) et que très peu d'informations sont donc disponibles dès à présent sur ses conséquences pratiques. Néanmoins, le but de cette réforme est manifestement de mettre un terme à la situation actuelle, caractérisée par le développement d'un marché parallèle pour les licences de taxi (les licences s'échangent non seulement au niveau individuel mais sont également délivrées par les trois autorités régionales).

Le Président présente Rex Deighton-Smith, invité à faire le point sur le problème de l'ouverture du marché des taxis et, plus particulièrement, sur la question de l'indemnisation des titulaires de licences pour la baisse de la valeur de ces dernières en cas de libéralisation du marché.

Rex Deighton-Smith indique que, dans les pays où l'accès au marché des taxis est restreint, la gestion de la réglementation est généralement menée de telle manière à inhiber progressivement l'offre (par rapport à un marché libre). Résultat : le prix des licences augmente sensiblement. Dans ces conditions, la libéralisation du marché (voire une diminution significative des barrières à l'entrée) se traduit par des pertes financières importantes pour les détenteurs de licences. La question se pose donc de savoir si les pouvoirs publics doivent indemniser les titulaires de licences pour compenser ces pertes.

Plusieurs solutions sont envisageables : les autorités peuvent atténuer les pertes et les répartir dans le temps par le biais de réformes progressives. Elles peuvent également racheter les licences à la valeur du marché (pour compenser ainsi la totalité des pertes). Elles ont également la possibilité d'accorder des

indemnisés à certains titulaires de licences afin de compenser le préjudice subi. Enfin, elles peuvent simplement libéraliser l'accès au marché, sans verser d'indemnités aux anciens détenteurs de licences. Des considérations complexes entrent en ligne de compte dans le choix d'une solution.

La licence constitue un actif incorporel dont la valeur est uniquement définie par la politique réglementaire (c'est-à-dire la politique de restriction du nombre de licences). Ainsi, les détenteurs de licences doivent être conscients que le risque d'un changement de politique est toujours présent. En outre, alors que les titulaires de licences ont parfois perçu des revenus exceptionnels importants, ces derniers n'ont pas été reversés aux autorités délivrant la licence. Dans ces conditions, certains estiment que les autorités ne devraient pas indemniser les pertes exceptionnelles.

Si l'on verse aux détenteurs de licence la valeur marchande totale (avant réforme) de la licence, les prestataires de services de taxi seraient, dans la pratique, les principaux bénéficiaires des avantages potentiels apportés par la réforme. Le versement d'une indemnité pour la perte de valeur des licences pourrait également compliquer les futures réformes, en créant un précédent. Dans l'application de la politique de concurrence australienne, la principale instance chargée de la réforme a préconisé de ne pas dédommager directement les parties prenantes affectées par la réforme pour leurs pertes, des indemnités étant uniquement versées pour faciliter la transition et compenser les préjudices subis.

L'expérience montre que les pouvoirs publics ne seront pas nécessairement contraints par la loi à indemniser les titulaires. En Nouvelle-Zélande, l'accès au marché des taxis a été ouvert en une seule fois, sans versement d'indemnités et sans que les détenteurs de licences ne cherchent à obtenir réparation. En Irlande, les précédents créés au cours de la réforme ont établi qu'il n'existait aucune obligation légale contraignant le gouvernement à verser des indemnités. Par ailleurs, le raisonnement adopté par le tribunal semble pertinent pour les réformes en cours dans de nombreux autres pays.

Le versement d'indemnités passe parfois pour faciliter la réforme en limitant la résistance des opérateurs en place. Néanmoins, même si les pouvoirs publics sont prêts à compenser entièrement la valeur de la licence, ils peuvent toujours être confrontés à des difficultés, car une indemnisation totale ne représente que le règlement d'un actif déjà particulièrement liquide et prive le titulaire de la perspective d'une plus-value future. Dans ces conditions, les détenteurs de licence ont rarement un point de vue neutre lorsqu'il s'agit de choisir entre racheter leur licence ou poursuivre leur activité dans les mêmes conditions.

En outre, le coût élevé représenté par le versement d'une indemnité à la valeur du marché constitue en lui-même un obstacle réel à la réforme. À titre d'exemple, le coût de ces indemnités s'élèverait à 7 milliards USD environ à New York et à 1.3 milliard USD à Melbourne (Australie). Les exemples de l'Irlande et de la Nouvelle-Zélande montrent qu'il est possible de mettre en place une réforme majeure, fondée sur un accès totalement libre au marché, sans verser d'indemnités compensatoires.

Les arguments utilisés pour justifier l'indemnisation ne sont pas uniquement d'ordre politique mais également moral. Les titulaires qui ont acheté leur licence il y a peu et se sont endettés à cet effet peuvent être placés dans une position difficile, de même que ceux qui, sans être endettés, ont acheté leur licence pour financer leur retraite. Néanmoins, la question est de savoir si la position de ce deuxième groupe de titulaires diffère de celle de tout autre groupe qui aurait investi dans un actif à haut risque sans diversifier suffisamment son portefeuille.

L'une des solutions possibles – qui s'inscrit dans le cadre de la logique d'indemnisation au titre du préjudice subi – consiste à rembourser les titulaires sensiblement en deçà de la valeur totale avant réforme de leurs licences. Plusieurs formules sont envisageables : les versements peuvent par exemple être basés sur le coût initial de la licence et indexés sur le taux des obligations d'État. Ils peuvent également être

fondés sur des études au cas par cas, avec obligation de démontrer le préjudice subi en l'absence d'indemnisation. C'est cette solution qui a finalement été retenue en Irlande.

Des solutions de ce type pourraient se révéler beaucoup moins coûteuses qu'une indemnisation totale et, partant, plus envisageables. Elles demeurent néanmoins relativement coûteuses.

Enfin, on peut envisager de compenser les pertes des opérateurs historiques en adoptant des réformes progressives. Cette approche présente toutefois plusieurs inconvénients : d'abord, elle retarde sensiblement la récolte des fruits de la réforme. Elle suppose ensuite le risque que le processus de réforme soit stoppé ou inversé sous la pression des opérateurs de longue date. Ce risque peut cependant être diminué en « verrouillant » un programme de réforme sur le plan législatif et en adoptant une approche transparente quant à la finalité attendue de la réforme.

Si l'option d'une réforme progressive est retenue, la question de la conception du processus se pose nécessairement. Il est en effet indispensable d'élaborer un mécanisme d'attribution des nouvelles licences. Certains pays ont tenté de contourner l'opposition à la réforme en n'accordant des licences supplémentaires qu'aux titulaires existants (dans le cadre d'un système « une nouvelle licence pour une licence existante » par exemple). Dans d'autres cas, les licences sont tirées au sort ou vendues aux enchères, après étude des candidats aptes à participer à ces procédures.

Enfin, il est essentiel de déterminer l'objectif final de la réforme. Si l'ouverture de l'accès au marché est le plus répandu, d'autres finalités ont également été mises en avant, telles que l'obtention d'un nombre « cible » de licences, considéré *a priori* comme représentant l'équilibre entre l'offre et la demande. Toutefois, l'expérience a montré que ces calculs tendent à sous-estimer largement le nombre optimal de licences. D'autres approches ont été adoptées, qui consistent notamment à suspendre l'octroi de licences une fois atteint un « niveau de service » déterminé à l'avance. Néanmoins, là aussi, cette solution se traduit généralement par un nombre de licences inférieur à celui qui serait atteint en situation d'accès libre au marché.

Le Président fait observer qu'en Irlande, près de 1 500 personnes ont été indemnisées à l'issue de la libéralisation du marché et il invite le délégué irlandais à expliquer l'approche choisie pour déterminer les candidats éligibles à cette indemnisation et le montant de cette dernière.

Un délégué de l'Irlande précise que le gouvernement a mis en place un « panel d'experts sur les préjudices subis par les chauffeurs de taxi », composé d'un représentant des organisations syndicales, d'un représentant des entreprises et d'un représentant du gouvernement. Ce panel a reçu 2 000 demandes, pour un total de seulement 3 000 titulaires de licences avant la réforme. Il a déterminé trois grandes catégories de situations justifiant une indemnisation : les veuves des titulaires de licence, les personnes de plus de 65 ans sans autre source principale de revenus pour leur retraite et les personnes de plus de 50 ans qui avaient contracté des emprunts importants pour l'achat de leur licence. La moyenne des indemnités versées s'élève à 15 000 EUR environ, soit près d'un dixième de la valeur de la licence préalablement à la réforme. Le coût global de ces indemnisations pour le ministère irlandais des Finances a atteint 17 millions EUR environ.

Catherine Liston-Heyes, invitée en tant qu'expert, souligne que les économistes font la distinction entre défaillance du marché et redistribution des revenus. Il est important, pour formuler des orientations, de séparer ces deux concepts. Le versement d'une indemnisation relève de la redistribution des revenus, dans la mesure où les titulaires de licence ne sont pas victimes d'une défaillance du marché. Néanmoins, dans le cas des taxis, les détenteurs de licence bénéficient souvent d'une opinion publique favorable. Or cette opinion peut se dégrader si le grand public s'aperçoit que les licences peuvent être détenues par des entreprises. Une campagne d'information est donc nécessaire pour sensibiliser l'opinion.

Le Président convient que les objectifs de redistribution doivent faire partie intégrante de la réforme. Il remarque que la Hongrie a ouvert l'accès au marché des taxis et que les prix peuvent être ajustés à la baisse avec l'arrivée de nouveaux intervenants. Il invite le délégué hongrois à préciser si ce phénomène a été observé dans la pratique et si la concurrence sur les prix est l'une des caractéristiques permanentes du marché.

Le délégué de la Hongrie explique que les dernières années ont été marquées par une arrivée massive de nouveaux intervenants sur le marché des taxis de Budapest. Aucune analyse quantitative n'a été réalisée mais il y a environ un an, l'offre de services de taxi desservant les aéroports a sensiblement augmenté à l'issue d'un appel d'offres. Les prix atteints se sont révélés largement inférieurs aux prix standard en vigueur avant l'appel d'offres. À Budapest, certains nouveaux arrivants se sont retirés du marché après quelques années, ce qui témoigne d'une concurrence relativement vive sur les prix.

Le Président signale qu'en Suisse, les licences de taxi ne peuvent être ni négociées ni transférées. La réglementation intervient au niveau des cantons et des communes, ce qui se traduit par une grande diversité de règles et directives. Pour dresser un tour d'horizon de la réglementation du secteur des services de taxi en Suisse, la délégation suisse a rédigé un rapport sur la réglementation en vigueur à Zurich, Berne, Bâle et Lausanne. Si certaines règles sont plus restrictives que d'autres, le nombre de licences n'est soumis à aucun *numerus clausus* à Zurich, Berne et Bâle. A Berne, la libéralisation s'applique également aux tarifs. Le Président invite le délégué suisse à répondre aux questions suivantes : les tarifs pratiqués à Berne diffèrent-ils de ceux appliqués dans les autres villes ? Pourquoi certaines communes exigent-elles des candidats à l'obtention d'une licence qu'ils aient à leur actif au moins une année d'expérience en tant que chauffeur de taxi ? Dans ces conditions, l'accès au marché des taxis est-il réellement libre ?

Le délégué de la Suisse indique que, selon son expérience personnelle et des observations ponctuelles, le niveau des prix est globalement harmonisé entre les différentes villes. À Zurich, où les tarifs sont fixes, tous les taxis pratiquent les mêmes prix. Dans d'autres agglomérations, les prix sont variables. La situation est la même sur le plan de la qualité de service. À Zurich, la qualité semble relativement stable, alors qu'elle est plus fluctuante à Berne et dans d'autres villes. Les petits taxis peuvent pratiquer des prix plus bas. Les conditions sont plus variables dans les villes qui ont déréglementé le secteur. La concurrence semble avoir des conséquences positives, dans la mesure où la diversification de l'offre (au niveau du couple prix/qualité) répond probablement de manière plus efficace à la diversité des demandes des clients. À Berne, la déréglementation totale du marché ne semble pas avoir suscité de difficulté majeure.

S'agissant de l'expérience demandée aux candidats à l'obtention d'une licence, il est fréquent que ces derniers soient dans un premier temps chauffeurs de taxis salariés avant de déposer leur demande de licence. Cette situation n'a pas entraîné de contraintes majeures dans la mesure où les petites sociétés de taxi sont nombreuses et qu'elles ne semblent pas s'entendre pour bloquer l'accès au marché. Par ailleurs, l'expérience acquise dans une agglomération est reconnue par les autorités des autres municipalités.

Le Président attire l'attention sur le fait qu'en Turquie, les chauffeurs de taxi sont choisis parmi les membres d'une chambre professionnelle. Comment un chauffeur peut-il intégrer cette chambre et quels sont les critères de sélection pour l'octroi de la licence ?

Le délégué de la Turquie présente les critères d'adhésion à cette chambre professionnelle : le chauffeur doit être de nationalité turque ou un ressortissant étranger entretenant des relations commerciales avec la Turquie et il doit être domicilié fiscalement en Turquie. Les critères d'obtention d'une licence de taxi ont été définis en 1986 par décision du Conseil des ministres. Aux termes de cette décision, le chauffeur qui demande une licence de taxi doit s'engager dans cette activité à plein temps et adhérer à une chambre professionnelle. Les licences sont attribuées selon une procédure d'appel d'offres sous pli fermés.

Le Président observe que, à l'instar de nombreux autres pays, l'accès au marché sud-coréen des taxis est réglementé au niveau local. Néanmoins, il existe des critères pour obtenir une licence, concernant notamment la taille de la flotte, la taille du garage et d'autres conditions relatives aux installations annexes spécifiques à la Corée. Ainsi, les sociétés qui proposent des services de taxi doivent posséder une flotte d'au moins 50 véhicules à Séoul et à Pusan, tandis que le seuil minimum est fixé à 30 dans d'autres villes. La taille minimum du garage est fixée à 13x15 mètres.

Par ailleurs, les sociétés doivent posséder des installations physiques, telles que des bureaux. Pour les chauffeurs de taxis indépendants, la taille du garage est fixée à 10x13 mètres. En outre, ces derniers ne doivent avoir aucun antécédent d'accident de la circulation au cours des cinq dernières années de conduite de véhicules professionnels et au cours des dix dernières années en tant que chauffeur engagé pour conduire un véhicule privé. Ils doivent également avoir été verbalisés moins de trois fois au cours des trois dernières années pour infraction à leurs obligations professionnelles. Enfin, les points de pénalité appliqués pour infraction au code de la route ne doivent pas être supérieurs à 180.

Le Président demande davantage de précisions sur la logique qui sous-tend les critères de taille de la flotte et du garage, ainsi que sur les conséquences du non-respect des critères relatifs aux infractions au code de la route ou aux accidents de la circulation.

Le délégué de la Corée explique que le critère de la taille du garage garantit l'existence d'installations de réparation des véhicules, tandis que celui de la taille de la flotte vise à garantir un niveau de service minimum en termes d'aptitude à satisfaire les réservations. Si les critères relatifs au code de la route ne sont pas respectés, la licence de taxi est annulée. Toutefois, il est possible d'en faire de nouveau la demande après un certain laps de temps.

Le Président observe qu'au Japon, les restrictions sur l'offre ont été supprimées en février 2002, pour laisser place à un régime d'entrée libre. Toutefois, à Tokyo et à Osaka, il faut s'inscrire sur un registre pour pouvoir devenir chauffeur de taxi. Le délégué japonais est invité à fournir des informations sur cette inscription. Le Président remarque également que la note d'information préparée par la délégation nippone pour la réunion précise que l'ouverture de l'accès au marché s'est traduite par une forte diversification des tarifs, englobant notamment des remises pour les courses longue distance et des tarifs forfaitaires. Cela étant, le Japon a mis en place un système inédit de réglementation des prix, qui contrôle également les tarifs minimums. Le Président s'enquiert des raisons de la mise en place de ce système et de ses effets.

Le délégué du Japon confirme que les mesures réglementaires visant à équilibrer l'offre et la demande ont été abrogées en 2002. On peut donc désormais accéder au marché même si le nombre de taxis dans une zone donnée est suffisant. En revanche, les mesures de contrôle de la qualité persistent, notamment l'obligation pour un arrivant potentiel de ne pas avoir d'antécédent d'accident de la route pendant une période prédéfinie. À Tokyo et à Osaka, les deux plus grandes métropoles, la plupart des clients hélent les taxis dans la rue. Dans ce cas, ils sont moins bien placés pour sélectionner le prestataire qui leur convient le mieux. Par conséquent, dans ces agglomérations, les mesures de réglementation de la qualité comportent des obligations supplémentaires, notamment des connaissances géographiques.

Auparavant, un système réglementé de prix fixes existait dans chaque ville. Toutefois, les prix ont été déréglementés il y a plusieurs années, afin de permettre une diversification des tarifs pour mieux répondre aux besoins des clients. Même si les modifications de tarifs doivent encore être approuvées, un système d'approbation automatique est utilisé pour tous les tarifs inscrits dans une fourchette définie à l'avance, afin d'accélérer la procédure d'approbation. L'instauration d'un tarif minimum vise à éviter toute pratique de dumping. Dans ce contexte, les tarifs fixés à un niveau inférieur au seuil minimum peuvent être approuvés s'ils s'avèrent couvrir l'ensemble des coûts de l'opérateur.

Le Président indique que l'autorité de la concurrence indonésienne préconise, dans sa note d'information, que les tarifs des services de taxi soient librement établis par le marché, en toute indépendance. Néanmoins, dans la pratique, ces tarifs sont fixés par le biais d'accords entre les différents prestataires dans la plupart des grandes villes. Le Président demande au délégué indonésien de lui exposer les raisons pour lesquelles l'autorité de la concurrence n'a pas eu recours aux dispositions du droit de la concurrence pour lutter contre de telles ententes sur les prix.

Le délégué de l'Indonésie précise que les tarifs sont en fait contrôlés par le gouvernement, après examen des informations fournies par l'association des sociétés de taxi. Les taxis qui desservent les aéroports constituent une catégorie distincte, avec des tarifs réglementés de manière indépendante. L'autorité de la concurrence a proposé d'ouvrir le marché des taxis à de nouvelles sociétés.

Le Président fait observer qu'en République tchèque, la réglementation des prix a été introduite en 1997, probablement en raison du mécontentement suscité par le système non réglementé alors en vigueur. Il demande au délégué tchèque quelles ont été les raisons de la réforme et comment l'entrée sur le marché est réglementée.

Le délégué de République tchèque explique qu'avant 1997, les tarifs étaient élevés et la qualité médiocre. Le gouvernement a décidé qu'il fallait donner aux municipalités la liberté de fixer les prix, ce qui a été fait dans trois villes. Toutefois, le prix maximum fixé a été peu respecté dans un premier temps. En 2000, les prix effectivement pratiqués dépassaient le plafond dans un quart des cas contrôlés par les autorités. Depuis, le taux de respect s'est amélioré et avoisine aujourd'hui 90 %.

L'accès au secteur est toujours libre, mais les candidats doivent être titulaires d'une licence et satisfaire à un certain nombre de critères pour pouvoir l'obtenir, en prouvant notamment qu'ils connaissent la géographie de la ville. Les villes sont également habilitées à réglementer différents aspects d'ordre qualitatif, allant jusqu'aux vêtements que les chauffeurs de taxi doivent porter. Un chauffeur a déposé une plainte au motif qu'il devait porter des chaussures, mais l'autorité de la concurrence n'a pas jugé que cette obligation constituait un obstacle à l'accès au marché. Prague a décidé de réglementer les dimensions, le nombre de sièges et la couleur des véhicules utilisés comme taxis. D'aucuns se sont plaints que seuls certains constructeurs automobiles proposaient la couleur choisie par la ville, laissant entendre que celle-ci favorisait certains constructeurs par rapport à d'autres.

Le Président souligne à quel point les approches de la réglementation des taxis par les collectivités locales au Royaume-Uni peuvent varier : certaines autorisent un accès entièrement libre au marché local des taxis (sous réserve que les chauffeurs et les véhicules se conforment aux obligations locales correspondantes). D'autres ont pour principe de plafonner le nombre de licences. D'autres encore ont adopté une stratégie explicitement axée sur la croissance. L'OFT (Office britannique de la concurrence) a publié deux rapports sur la réglementation des taxis, l'un en 2003 et l'autre en 2007. D'importantes révisions de la réglementation ont été mises en œuvre à la suite du rapport de 2003. Le Président demande au délégué du Royaume-Uni de fournir plus de détails sur les modifications récentes et de réagir aux perspectives d'une libéralisation totale de l'accès au marché britannique.

Le délégué du Royaume-Uni explique que le premier rapport de l'OFT préconisait que les autorités locales renoncent à réglementer l'accès au marché des taxis. Tout en acceptant les arguments en faveur du maintien d'une réglementation tarifaire, il demandait que les tarifs maximums soient fixés et rendus publics par l'autorité de réglementation. En réponse, un tiers environ des collectivités locales qui jusqu'alors réglementaient l'accès ont cessé de le faire. Le second rapport examine les effets des changements intervenus, sur la base d'une évaluation indépendante.

Cette évaluation révèle que la qualité du service est restée stable, tandis que les temps d'attente ont diminué grâce à une offre de taxis plus abondante, surtout la nuit. Toutefois, rien ne montre que les tarifs ont baissé.

L'évaluation estime que la diminution des temps d'attente et l'utilisation plus fréquente des taxis au lieu d'autres moyens de transport ont fait gagner aux consommateurs de 2 à 4.5 millions GBP. Toutefois, les compagnies de taxis ont subi des pertes comprises entre 12 et 31 millions EUR dues au fait que les chauffeurs doivent attendre plus longtemps entre deux clients. En termes nets, la déréglementation de l'accès a donc abouti à une perte d'efficacité productive comprise entre 8.5 et 29 millions GBP.

Selon le délégué du Royaume-Uni, la raison la plus probable expliquant cette perte d'efficacité dans le secteur tient au fait que, même si les restrictions quantitatives ont été supprimées, les collectivités locales ont maintenu les restrictions tarifaires, sous la forme de prix maximums réglementés. Pourquoi la déréglementation n'a-t-elle pas entraîné une baisse des prix ? Au Royaume-Uni, la fixation des tarifs des taxis est souvent le résultat de négociations entre les collectivités locales et la profession. Des données empiriques montrent que les autorités réglementaires ont maintenu les tarifs au même niveau ou les ont relevés légèrement pour s'assurer que la profession adhère aux réformes. Les titulaires d'une licence de taxi n'ont pas semblé prendre la mesure de l'effet de la hausse des prix sur l'accès au marché.

On a soutenu que, dans un scénario où les restrictions quantitatives sont levées alors que les restrictions tarifaires sont maintenues, du moins pour les prix maximums, celles-ci sont de nature à attirer de nouveaux acteurs sur le marché, tant et si bien qu'il y aura excès de l'offre (surtout compte tenu du fait que l'élasticité de la demande par rapport aux temps d'attente paraît être faible), et ces nouveaux arrivants auront tendance à facturer le prix maximum réglementé. La solution adéquate pour les collectivités locales serait alors de ramener les tarifs réglementés à un niveau plus proche du point d'équilibre du marché.

Le Président souligne qu'il ne faut pas oublier que toute baisse des tarifs doit être suivie d'une augmentation de la demande. En Norvège, l'autorité de la concurrence joue un rôle très important dans le secteur des taxis. Elle fait notamment office de contrôleur des prix, puisqu'elle décide des tarifs des services de taxi dans certaines villes. Plus récemment, elle a choisi de ne pas fixer les prix dans les villes comptant plus de deux services de répartition. Doit-on en déduire que l'autorité de la concurrence estime que l'existence de deux services de répartition représente une concurrence suffisante sur le marché pour contrôler efficacement les prix ? Comment peut-il y avoir concurrence au niveau des prix si les quantités sont fixes ? Contrairement à d'autres pays, les collectivités locales en Norvège décident du nombre de services de répartition, et tout détenteur d'une licence doit s'affilier à un de ces services. Les municipalités encouragent-elles la concurrence ou sont-elles sous la coupe des chauffeurs de taxi ?

Le délégué de Norvège répond que deux moyens de promouvoir la concurrence ont été recensés : améliorer les règles d'accès au marché et améliorer l'information dont disposent les consommateurs. L'autorité de la concurrence a indiqué aux collectivités locales que la réduction des obstacles à l'entrée de nouveaux services de répartition pouvait être un bon moyen d'intensifier la concurrence. Pour ce faire, on peut autoriser un service de répartition issu d'un marché différent à s'implanter, ou réduire le nombre minimum de licences affiliées qu'un tel service doit totaliser pour pouvoir exercer ses activités. On peut aussi prendre des mesures visant à accroître la mobilité effective entre les services de répartition des licences de taxi. Si un service de répartition plus petit décide de livrer concurrence sur les prix et attire des chauffeurs affiliés à un autre service, la concurrence s'en trouverait renforcée.

L'autorité s'est également interrogée sur la manière de mieux sensibiliser les consommateurs et de les informer sur les conditions de service. La structure tarifaire est complexe et difficile à comprendre pour de nombreux usagers, avant comme après une course. L'autorité de la concurrence a coopéré avec l'organisme de défense des consommateurs afin de tenter de mettre en place un système de prix de



référence prévoyant l'affichage des prix sur les taxis, pour que la concurrence puisse jouer dans les stations. Des négociations sont en cours pour modifier la base de calcul tarifaire afin d'intégrer deux critères (temps et distance) plutôt qu'un seul (temps ou distance).

Le Président fait observer qu'en 2002, le Conseil de la concurrence de Roumanie a engagé une enquête visant à déceler une éventuelle entente sur les prix parmi les chauffeurs de taxi à Bucarest, mais qu'aucune preuve n'avait été trouvée. En 2007, une nouvelle loi a donné aux municipalités le droit de fixer le nombre de licences de taxi et de décider des prix maximums. On dénombre plus de 10 000 licences à Bucarest et de nombreux services de répartition. La loi ne semble pas être très pertinente, puisque la concurrence est déjà vive, les prix sont variables, du moins à Bucarest, et tous les taxis sont tenus de s'affilier à des services de répartition (ce qui permet aux usagers de comparer plus facilement les prix). Le délégué roumain est interrogé sur les raisons pour lesquelles cette loi a été adoptée.

Le délégué de Roumanie répond que le marché des taxis présente de grandes disparités d'une zone géographique à une autre, aspect également souligné par la France et la Grande-Bretagne dans leurs contributions. La situation est ainsi très différente entre les grandes villes et les zones rurales. Certains de ces marchés se caractérisent par une concurrence monopolistique. On admet généralement que les restrictions de l'offre profitent clairement aux producteurs. Cette situation survient lorsque la demande est inélastique, alors que, dans de nombreuses villes, elle est très élastique. C'est peut-être la raison pour laquelle la Roumanie connaît une relative stabilité des prix sur certains marchés, dans un environnement fortement inflationniste.

La loi en question régleme les transports publics en général et ne porte pas spécifiquement sur les taxis. Les discussions sur la réglementation de ce secteur ont débuté en 2002-03. L'objectif principal, du moins dans un premier temps, était probablement de trouver une parade aux opérateurs sur le marché noir ou sur le marché informel.

Le Président constate qu'aux Pays-Bas, une nouvelle loi sur les taxis est entrée en vigueur en janvier 2000, avant d'être légèrement révisée en 2002, puis en 2004. Les premières licences nationales ont été introduites et un régime d'entrée libre a été mis en place, associé à une réglementation des prix maximums. Le délégué néerlandais est invité à expliquer pourquoi les prix n'ont pas baissé et quel rôle les accords anticoncurrentiels peuvent avoir joué à cet égard.

Le délégué des Pays-Bas indique qu'avant 2000, le marché néerlandais des taxis était fortement réglementé, surtout par le contingentement des licences. Les candidats à l'exercice de cette profession acceptaient d'acquiescer des sommes élevées pour s'affilier à un réseau de répartition. Les licences étaient valables pour certaines régions seulement. Par conséquent, l'offre de taxis était inadaptée. Les réformes ont donc visé à supprimer la réglementation des capacités. Aujourd'hui, chacun peut obtenir une licence d'exploitation, sous réserve d'obéir à certaines règles déontologiques. Parallèlement, un tarif maximum a été mis en place, et les restrictions géographiques ont été abolies. Les restrictions qualitatives, quant à elles, ont été maintenues.

L'examen des répercussions de ces changements révèle que tous les consommateurs n'en ont pas profité, surtout à cause de la légère augmentation des tarifs. Il existe plusieurs explications possibles : (1) un manque de transparence, la structure tarifaire étant basée sur un prix de départ, un tarif en fonction des distances et un tarif à la minute passée à l'intérieur du taxi. Les prix correspondants sont indiqués sur le côté du véhicule, en très petits caractères. (2) Aux Pays-Bas, les taxis attendent généralement en file. Il est difficile pour l'usager de ne pas choisir le premier taxi de la file. Les chauffeurs ne sont donc pas incités à baisser leurs prix. (3) Le prix maximum réglementé peut, dans la pratique, être considéré comme un prix indicatif, même en l'absence de coordination entre les chauffeurs.

Les révisions récentes de la réglementation des taxis incluent l'introduction d'un examen obligatoire pour les chauffeurs et l'exigence de connaissances linguistiques et géographiques minimales. Les stations ont été modifiées afin que le client ne soit pas obligé de choisir le premier véhicule de la file. Malgré cela, la règle du « premier entré, premier sorti » reste très souvent de mise. Il existe une certaine modulation des prix, car une course dans un véhicule de plus grandes dimensions coûtera vraisemblablement plus cher.

Le Président souligne que la Suède a déréglementé son marché des taxis le 1<sup>er</sup> juillet 1990, et qu'elle dispose à ce titre d'une longue expérience de la concurrence sur ce marché. Cette déréglementation a généré des effets positifs mais aussi certains problèmes. Le marché suédois des taxis se compose en réalité de nombreux marchés locaux présentant des caractéristiques très différentes. Le nombre d'usagers varie considérablement entre les zones urbaines et les zones peu peuplées. Il convient d'en tenir compte pour juger du succès de la réforme. En outre, les catégories de clients qui dominent sont très variables d'une région à l'autre du pays. Dans certaines zones peu peuplées, les transports financés par des fonds publics, comme le transport de personnes âgées ou nécessitant des soins médicaux (pris en charge par les municipalités), représentent 90 % de toutes les courses en taxis. Le délégué suédois est invité à indiquer les raisons qui sous-tendent les réformes et si elles ont été couronnées de succès. En particulier, les consommateurs sont-ils informés des prix ? La différenciation des véhicules par la qualité conduit-elle à des écarts de prix ?

Un délégué suédois explique qu'avant 1990, les services étaient fortement réglementés. La déréglementation était motivée par la mauvaise qualité du service et les temps d'attente importants. La situation paraît meilleure après la réforme, surtout parce que les usagers sont beaucoup moins nombreux à se plaindre de l'absence de taxis. Les chauffeurs de taxi n'ont pas demandé une reréglementation de leur activité. Les sociétés se concurrencent sur la base de tarifs fixes sur des itinéraires identiques (de Stockholm et d'autres villes vers les aéroports par exemple). Les lois de protection des consommateurs imposent que les tarifs soient indiqués à l'extérieur comme à l'intérieur du véhicule. Grâce à l'Internet, les usagers peuvent calculer le prix théorique d'une course.

Le Président rappelle que, lors de la table ronde de 2001 sur le transport routier, le délégué irlandais expliquait que, comme en Italie, la plupart des licences de taxi étaient détenues par des individus, formant un bloc politique distinct et bien organisé qui s'opposait aux efforts de réforme de la part des responsables politiques. Toutefois, l'expérience irlandaise tend à montrer que si l'accès est restreint alors que la demande augmente, les consommateurs finiront par faire entendre leur voix et exerceront des pressions sur les responsables politiques en faveur du changement. Néanmoins, c'est un processus qui peut prendre beaucoup de temps. Jusqu'à la fin des années 70, le nombre de taxis en Irlande était illimité. La réglementation adoptée en 1978 autorisait les collectivités locales à réglementer le nombre de taxis dans leurs zones de compétence. Aucune nouvelle licence n'a été accordée pendant environ 14 ans. Le ministre est alors intervenu, délivrant des licences supplémentaires et redonnant le pouvoir aux autorités locales. Une fois encore, elles n'ont pas délivré de licences supplémentaires. Aujourd'hui, l'accès est libre et la concurrence s'exerce pleinement sur le marché des taxis. La leçon à tirer de l'expérience irlandaise serait que la concurrence ne peut s'imposer dans l'agenda politique que si la situation du marché se détériore à tel point que tous les acteurs, hormis les chauffeurs de taxi, sont mécontents. Comment convaincre l'administration centrale et les autorités locales des bienfaits de la concurrence ?

Le délégué de l'Irlande explique que les services de taxi et leur libéralisation figuraient au programme des pouvoirs publics bien des années avant que les restrictions quantitatives d'accès ne soient finalement supprimées en 2000. Certaines réformes parcellaires ont été mises en œuvre durant les années 90 : 150 nouvelles licences ont été délivrées de 1991 à 1995, contre 700 en 1997 et 1998 pour les taxis accessibles aux personnes en fauteuil roulant. Toutefois, cette augmentation de l'offre n'a absolument pas suivi la croissance de la demande, et en définitive l'offre s'est retrouvée sévèrement limitée. En 2000, il ne restait que 4 000 taxis environ, et la valeur d'une licence était comprise entre 120 000 et 150 000 EUR. À

la fin des années 90, le ministre alors en exercice a proposé d'engager une réforme plus poussée, prévoyant l'émission d'une licence supplémentaire (sans contrepartie financière) pour chaque licence actuellement détenue, ainsi que la délivrance de plusieurs centaines de nouvelles licences à des personnes qui n'en étaient pas titulaires. Néanmoins, les chauffeurs détenteurs d'une licence mais non propriétaires de leur véhicule ont contesté cette mesure, et les tribunaux ont jugé que le gouvernement n'était pas fondé à restreindre le nombre de taxis.

Les syndicats de taxis étaient mécontents. Toutefois, le gouvernement a résisté aux pressions allant dans le sens d'une réglementation. Les chauffeurs de taxi ont commencé à exiger la mise en place d'une autorité de réglementation indépendante, espérant qu'elle rétablirait des limites quantitatives. Bien qu'une telle autorité chargée de fixer les tarifs et les conditions d'accès ait été instaurée en 2003, elle n'en a rien fait. En réalité, le nombre de licences de taxi a quadruplé depuis 2000.

La redevance initiale pour une nouvelle licence est de 6 300 EUR. Tout le pays est considéré comme une seule et même zone tarifaire. L'autorité de réglementation cherche à se rapprocher d'un marché parfaitement concurrentiel. De nouvelles exigences ont été définies pour les véhicules et pour leurs chauffeurs. L'une des plus grandes sociétés de taxis possède 860 véhicules à Dublin. La déréglementation a libéralisé le marché. Plus de chauffeurs, ce sont plus de clients. Ceux qui jusqu'alors louaient des plaques ont acquis leur propre licence. Les centres de répartition se sont développés.

Auparavant, la réglementation était fragmentée. Les autorités locales, les forces de police et le ministère de l'Environnement participaient tous à la réglementation. Les consommateurs étaient les plus mal lotis. Un marché secondaire s'est peu à peu développé, avec l'apparition des « cosies » (le siège du chauffeur reste toujours « douillet » !), ces personnes qui louent chaque jour un taxi pendant une tranche horaire donnée. Aujourd'hui, le marché est correctement réglementé et les consommateurs sont plus satisfaits. Les usagers jugent que la fiabilité et la disponibilité importent plus que le prix.

On peut conclure de l'expérience irlandaise que la déréglementation fonctionne à condition d'être accompagnée par un organisme de réglementation puissant et indépendant. Il importe de continuer de réglementer le tarif maximum. Les consommateurs, mal représentés, ne sont pas en mesure de parler d'une seule voix. Les usagers des taxis sont vulnérables : ils sont confrontés à des coûts de recherche non négligeables, et il existe une asymétrie de l'information entre les chauffeurs et leurs clients, surtout s'il s'agit de touristes. Si le consommateur a pour habitude de choisir le premier taxi de la file, il est difficile d'introduire une concurrence sur les prix. Toutefois, l'expérience irlandaise suggère que les restrictions à l'entrée génèrent plus de problèmes qu'elles n'en résolvent.

Michel Violland, du Centre de recherche sur les transports au sein de la CEMT, fait observer que son groupe a organisé une réunion des spécialistes des transports qui a reconnu que le marché des taxis présente un certain nombre de particularités qui rendent une déréglementation complète difficile. La déréglementation tarifaire semble particulièrement problématique. Les coûts de production augmentent à mesure que les obstacles à l'entrée sont levés car les taux d'occupation des taxis diminuent. Les chauffeurs ne comprennent pas que la baisse des prix attirera de nouveaux clients, ce qui leur permettra de relever leurs tarifs en réaction au renchérissement des coûts de production. Lorsqu'un pays envisage de libérer l'accès à son marché, M. Violland suggère d'engager une réforme en plusieurs étapes, qui prévoit la déréglementation progressive du nombre de licences. Il convient d'opérer un suivi précis et détaillé du processus de déréglementation pour déterminer si les résultats sont à la hauteur des attentes. À titre d'exemple, il peut être nécessaire, une fois la déréglementation menée à bien, de réintroduire une réglementation tarifaire. Divers créneaux spécialisés ont besoin d'être développés, comme les services à l'intention des personnes handicapées ou vivant en milieu rural et l'offre de services dans les banlieues de certaines villes. En conclusion, il serait peut-être opportun d'adopter une politique à l'échelle européenne, dans le cadre du marché unique.

Le délégué du Taipei chinois fait remarquer que comparativement à de nombreux pays qui ont évoqué leurs systèmes de réglementation des taxis, le secteur des taxis au Taipei chinois connaît peu de restrictions. La concurrence y fonctionne. Lorsque par exemple un aéroport a demandé le droit exclusif de sélectionner des sociétés de taxis en contrepartie d'une redevance mensuelle, les concurrents ont aménagé une station à proximité de l'aéroport, facilement accessible à pied. L'île compte de nombreux réseaux puissants qui encouragent les chauffeurs à les rejoindre, ce qu'ils sont nombreux à faire, par exemple pour éviter de payer des amendes.

Catherine Liston-Heyes souligne que l'un des principaux effets de la déréglementation est de favoriser l'innovation dans les structures de marché comme dans la prestation de services. La réglementation de l'accès est souvent invoquée comme moyen de faire face aux externalités associées à la fourniture de services de taxi. Mais si sa déréglementation donne naissance à de nouvelles structures de marché, ces externalités peuvent être internalisées via le marché.

Le délégué d'Afrique du Sud explique que dans les pays en développement et à revenu intermédiaire, les questions de réglementation et de déréglementation sont particulièrement complexes. En Afrique du Sud, jusqu'à 70 % des trajets pour se rendre au travail s'effectuent en taxi<sup>1</sup>, ce qui assure à ce secteur de substantielles recettes. Son importance économique est considérable, tant pour les autorités locales que pour l'administration centrale. Ce secteur est largement non réglementé. Les propriétaires de taxis tentent de contrôler les stations afin de contrôler les parcours. Ce contrôle fait l'objet d'une certaine reconnaissance formelle. Les rivaux sont exclus par la violence. Même des compagnies d'autocars peuvent être menacées. Le gouvernement tente de définir des spécifications pour les nouveaux véhicules, de racheter les vieux taxis et d'exiger des opérateurs qu'ils acquièrent de nouveaux modèles homologués. Toutefois, les chauffeurs sont généralement réticents à remplacer des véhicules de 16 à 20 places par le modèle homologué de 10 places. Les efforts de réforme trouvent donc peu d'écho.

Le délégué du Brésil souligne que, s'agissant d'un thème complexe, il serait très difficile de recenser les meilleures pratiques, surtout si l'on considère que l'élasticité de la demande dépend beaucoup des services de transport collectif disponibles. L'essentiel est de ne pas bloquer l'innovation susceptible de donner naissance à de nouveaux services. Il faut garantir que la réglementation n'entrave pas la modulation des prix.

Le Président conclut que les défaillances du marché peuvent être difficiles à déceler. Le problème de distribution déjà mentionné est politiquement sensible et de grande importance. Le Président exprime sa conviction que l'élasticité de la demande est probablement plus forte que les chauffeurs de taxi ne le pensent, de sorte qu'une baisse des prix entraînerait une progression de la demande suffisante pour accroître les bénéfices.

Au plan politique, l'expérience irlandaise montre combien la libéralisation est difficile à mettre en œuvre. Le mécontentement doit être fort pour que la réforme soit possible. Toutefois, le plafonnement du nombre de taxis a tendance à mécontenter les consommateurs, tandis qu'un accès plus libre au marché améliore le service dont ils bénéficient. L'expérience britannique laisse penser que les prix maximums devraient diminuer une fois la liberté d'accès instaurée. Les services sont souvent peu innovants, ce qui peut toutefois résulter en partie du maintien de restrictions réglementaires. Il est possible d'innover en matière de tarifs et de services de répartition, comme d'utiliser des systèmes de navigation par satellite afin d'améliorer la qualité de la conduite.

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<sup>1</sup> Ce pourcentage recouvre l'utilisation fréquente de taxis collectifs qui s'apparentent à des minibus, comme l'explique la suite du paragraphe.