



CUSTOMERS FIRST

SERVICE, SAFETY, CHOICE



taxi INDUSTRY INQUIRY
Draft report, May 2012

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Foreword

For the last 12 months, the Taxi Industry Inquiry has been conducting an extensive and wide ranging investigation into Victoria's taxi and hire car industry. We have heard from and consulted with taxi users, local councils, businesses and community organisations, taxi drivers, operators, licence holders and networks across the State. We have sought the views of expert economists and regulators here in Victoria and overseas. We have conducted and commissioned our own research, and we have amassed substantial information and data about the state of the industry and its performance. The result is this draft report.

From the outset, the inquiry has taken the approach that the customer comes first and that the taxi and hire car industry – as with any service industry – exists to serve the customer, not the other way round. Our examination of the industry and our draft recommendations for reform are grounded firmly in the belief that there is no point in undertaking reform if the results do not meet the needs of consumers. Most of all, we are determined to give Victorians a much greater choice in point-to-point travel services, recognising that choice empowers consumers and that the best way to provide choice is through an open, competitive market.

We are also convinced that this is the best way forward for the industry. There is much untapped potential in Victoria's taxi and hire car markets and reforms to increase competition and reduce ineffective and costly regulation will help the industry to realise this potential and grow demand for its services.

Over the course of the past year, it has become very clear that Victorians want greater choice and better quality taxi services. It is also clear that Victoria's taxi market lacks the basic hallmarks of a competitive market and that restricting entry into the market – and the resulting high licence values – is a major contributor to the problems facing the industry today. It is also apparent that the taxi industry has not recognised the need for change. Industry participants often cannot agree on key issues or seem paralysed about how to remedy inequities, improve services and sustain their own viability into the future.

The taxi industry is an extraordinarily complex one and there are no simple 'fixes'. The inquiry's draft reforms aim to set a new direction for the industry that balances different interests and constraints. But – make no mistake – we are determined that the results of this inquiry will not be 'business as usual' for the industry. We are determined to propose reforms that lead to a much more diverse and dynamic industry, and one that ceases to be beholden to the interests of dominant parts of the industry to the detriment not only of consumers, but those who deliver the services 'on the ground': taxi operators and drivers.

If there is one conclusion to be drawn from the inquiry's work, it is that the industry's structure has to change. If it does not, it will not only be consumers who suffer: the industry itself will stagnate and decline.

This draft report aims to give Victorians a strong sense of the inquiry's approach to reform. Over the coming weeks, we will continue to consult and gather the information, working towards our final report later in the year. We do not pretend to have all the answers to the dilemmas and difficulties facing the industry. We are keen to hear from Victorians with facts, information or solutions that challenge our analysis or our proposals for reform.

I thank the many people who have participated in and contributed to our work over the last 12 months. I also thank the team working with me for their hard work and support in undertaking this inquiry. The extraordinary response we have received shows the importance Victorians place on taxi and hire car services. It also shows that there is no way back – significant and lasting reform must occur for the industry to grow, continue to make a vital contribution to Victoria's economy and support the changing travel choices of Victorians into the future.



Professor Allan Fels AO
Chair, Taxi Industry Inquiry

Allan Fels

Status of this report

Customers First: Service, Safety, Choice is a draft report that includes proposed recommendations for reform of Victoria's taxi and hire car services based on the Taxi Industry Inquiry's research, analysis and consultation to date.

This report has been released for public consultation and comment to ensure that the inquiry's recommendations in its final report to the Victorian Government are robust, evidence-based and have fully considered the views of taxi users, the taxi industry and the wider community.

In some areas of the report, the proposed recommendations give clear direction on the inquiry's thinking; in other areas, the inquiry is seeking further data and information before settling on a position.

Opportunity for further comment

The inquiry is inviting submissions on its draft recommendations as part of the inquiry's public consultation processes. Submissions may comment on any of the issues and options covered in the draft recommendations or that are relevant to the inquiry's Terms of Reference.

How to make a submission

Submissions may be completed online, or sent by email or mail in electronic, paper or audio format.

Online: www.taxiindustryinquiry.vic.gov.au
By email: taxiindustryinquiry@transport.vic.gov.au
By mail: Taxi Industry Inquiry, Locked Bag 20046,
Melbourne VIC 3001

In line with the inquiry's commitment to transparency and openness, all submissions received will be considered public and will be posted on the inquiry's website. Confidential submissions will not be accepted or considered by the inquiry.

Guidelines on how to make a submission are available from the inquiry's website www.taxiindustryinquiry.vic.gov.au

Public Forums

Organisations or individuals who provided a submission to the inquiry by the required date may also register an interest in speaking to their submission at a Public Forum.

You must have previously lodged your written or audio submission to register your interest in providing a verbal submission at the Public Forums.

The inquiry will determine which submissions it agrees to hear verbally and will allocate an appropriate time. All Public Forums will be recorded.

Further information including Public Forum dates, the deadline for written and audio submissions, the closing date for registering your interest in providing a verbal submission, and guidelines on making submissions will be available from the inquiry's website www.taxiindustryinquiry.vic.gov.au or by calling 1800 829 444.

Final report

Following the public consultation phase, the inquiry will spend some time considering the submissions and other information received and will finalise its recommendations. A final report is expected to be handed to the Victorian Government later this year.

Overview

Victorians have made one thing very clear: they want better taxi services.

They want higher quality, more professional drivers who know their way around and who provide a much more customer-focused experience. They want more reliable booking services and taxis that arrive on time. They want a bigger range of services, especially in regional Victoria where public transport options can be scarce. They want more taxis and other flexible 'point-to-point' services available at peak periods, such as late Friday and Saturday nights. While recognising the limitations of taxi services, Victorians do not understand why the experience of travelling in a taxi cannot be improved and why – in an era of smartphone applications, GPS devices and wireless technology – the taxi industry appears unable to make its services more responsive to their needs and demands.

Victorians with a disability feel even more strongly about the poor quality of taxi services. For these Victorians, the shortcomings of taxi services can have serious consequences, affecting their ability to move around, travel to and from work, or participate fully in community life. Most of these taxi users have lost confidence completely in the taxi industry, with many preferring to bypass the large booking networks to find regular, trusted and reliable drivers.

After a year long investigation that has included statewide consultations, research and analysis, extensive online engagement, nearly 400 submissions from the Victorian public and the collation of a wealth of data that has not previously been available, the Taxi Industry Inquiry has found that Victoria's taxi industry is performing poorly and is not working well for consumers. What's more, with the overall number of taxi trips remaining static and occupancy rates of taxi vehicles remaining low, the effects of this poor performance are also felt by many in the industry, especially taxi operators and drivers.

Despite these poor results, there is little impetus for change coming from the taxi industry itself. Sections of the industry appear to believe that these problems are exaggerated and that only minor improvements in performance are needed. Others in the industry seem paralysed by the prospect that substantial reform may be required to make the changes being demanded by customers and sought by government. Those in the industry who are keen to see change are often taxi operators who find themselves trapped by the high prices they pay to 'rent' a licence on assignment with little prospect of ever being able to purchase a licence for themselves.

The inquiry has found that the causes of the taxi industry's poor performance are longstanding and deeply entrenched. Most of the industry's problems stem from the complex and highly restrictive regulatory framework within which it operates – a framework that constrains competition, stifles innovation and directs much of the revenue generated by the industry away from those providing 'on the ground' services.

Many aspects of the industry's poor performance are exacerbated by regulation that limits the total number of taxi licences. This ensures that the number of taxis is determined not by customer demand or market forces, but by an artificial restriction that acts primarily to protect the incomes of current licence holders. Limiting licence numbers creates a shortage of taxis, leading inevitably to higher prices and fewer services. The ability for licence holders to assign the rights to operate the taxi also means that there is often no coincidence of interest between owning a taxi licence and providing the taxi service. Other regulations further erode incentives to improve services, such as fare controls, restrictions on vehicle design and compelling taxi operators to affiliate with a booking network.

Taxi drivers are central to how Victorians feel about taxi services, with many people complaining about a decline in driver quality, knowledge and standards of behaviour. However, the inquiry's investigations confirm what most Victorians already know: drivers are well and truly 'at the bottom of the food chain' in the taxi industry. The vast majority of drivers do not own or operate the vehicles they drive and most work under unfair bailment arrangements that offer none of the basic protections and entitlements enjoyed by many other workers, such as annual leave, sick leave or superannuation. On average, drivers earn below the Australian minimum wage, while working long hours with scant respect or reward. It is little wonder many do not remain in the industry for long.

Drivers also have almost no ‘voice’ in their industry and little power to effect change. With few exceptions, the taxi industry has failed to value drivers as the ‘face’ of the industry and as the critical element that determines whether consumers have a good or bad experience. Instead, the industry has relied on a continual supply of low paid drivers, with little regard for the service implications of high driver turnover. In recent times, the supply of drivers has tightened but, rather than offer better pay and conditions to attract and, importantly, keep good drivers, the industry has opted to maintain the status quo – continuing to try to recruit new, low paid drivers into the same bailment system while doing nothing to retain experienced drivers. At the same time, the industry has pressured the Victorian Government for a fare rise, despite concerns expressed by some drivers and others that this may suppress consumer demand for taxi services even further and despite strong evidence that the benefits of fare increases accrue to taxi licence holders rather than to operators and drivers.

Melbourne taxi licences are now worth almost half a million dollars and the vast majority are leased out (or assigned) by licence holders to taxi operators for ever increasing prices. This places great cost pressures on taxi operators who, in turn, offer very little to drivers. Sitting alongside the taxi licensing regime (and often intimately tied to it through confusing and interlinked arrangements) is another group of players, including booking networks, taxi brokers, taxi clubs, the providers of electronic payment systems and the providers of ancillary services to the industry – many of whom benefit from the effects of restrictive regulation.

There are now significant anti-competitive forces at play within the industry, most notably the concentration of power with the major taxi networks and Cabcharge. There are also regulations that prevent alternatives to taxi services – such as hire car services – from competing with taxis. Decades of constraints on competition mean that the mindset across the industry is focused on retaining the status quo and protecting incumbent interests, rather than seeking ways to promote competition and improve services to consumers.

Restrictive regulation also provides few incentives for the industry to exceed basic benchmarks or look beyond existing service types. Aside from a few pockets of entrepreneurship, the industry has failed to seize opportunities to expand into new markets, establish new services or significantly improve existing services. Where individual operators do attempt innovation, they are often thwarted by regulatory barriers that restrict their ability to offer more flexible services to customers. When these restrictions are combined with a situation where much of the revenue generated by the industry flows to licence holders, it is not difficult to see why the industry is stagnating.

These are complex problems that will not be easy to resolve.

One approach adopted in other countries to tackle these issues is to move to an open market – where there are no limits on licence numbers and licences are available for a small administrative fee. While there is a view in some parts of the Victorian industry that an open market is neither achievable nor desirable, the experiences of several countries, such as Singapore, New Zealand and Sweden, suggests that an open market can function well and deliver benefits to consumers. The main lessons from these and other places are that a successful open market requires oversight over fares and retention of controls on safety and service quality, and the effective enforcing of these regulations.

The inquiry has examined in detail the case for an open market in Victoria. The inquiry considers that there are no strong public interest grounds for continuing to restrict entry to the taxi market. These restrictions are clearly detrimental to competition and innovation, as well as making it very difficult for a wider range of people, including drivers, to operate their own taxi businesses. In addition, as the inquiry has found, the holders of these restricted licences are able to capture a substantial share of industry income without re-investing their rewards back into the industry. The industry’s performance suffers as a result.

However, the inquiry considers that, although generally desirable, a move to a full open market is not possible or desirable at present. In particular, reducing licence values to close to zero – as would occur in an open market where taxi and hire car licences are essentially ‘free’ – without compensation is likely to cause significant hardship to some licence holders. In the absence of other reforms, for example driver remuneration, such a move would also likely result in an over-supply of taxis at certain times of the day and week. Victoria’s overall taxi fleet now has low utilisation and occupancy rates and consumer demand is weak. For the industry to remain viable and deliver benefits to consumers, reform needs to take account of these problems and include measures to improve the efficiency and quality of services, as well as increasing consumer demand for services. It is also important to note that liberalising licences alone is unlikely to generate greater consumer choice without complementary pro-competitive measures affecting networks and operators being in place. Further, moving to an open market in isolation from other measures will not address directly a key concern customers have with taxis: the poor performance of taxi drivers. The inquiry considers that both suitable ‘pre-conditions’ prior to moving to full open entry, combined with an understanding of the complementary measures required under the new approach, are needed to support a successful reform during the transition phase and over the long term.

Accordingly, the inquiry does not consider a full open market is a practical option at this time. Instead, the inquiry is adopting a more gradual path of reform that sets the industry on a new direction towards a more open and competitive market. The inquiry is recommending a package of regulatory reforms that aim to enhance competition and performance across the industry. These measures are designed to **increase and improve the supply of taxis, restore trust in the industry and boost the demand for taxi services.**

The inquiry’s strong view is that comprehensive regulatory reform of the taxi and hire car industry is long overdue. Taking a piecemeal approach to reform will only deal with the symptoms of the many problems identified in this report. It will also reduce the chances of ever achieving substantive reform of the industry. Accordingly, the inquiry’s reform package aims to generate a fundamental shift in the focus and balance of taxi and hire car regulation. Under the inquiry’s proposals, regulation will become more outcomes-focused and less prescriptive; more responsibility will be placed on industry for good service performance; and, most importantly, competition will be allowed to operate more effectively to enhance performance.

The inquiry’s reforms are carefully interlinked: in many instances, it will not be possible to achieve the desired outcomes if a series of complementary actions are not taken. For example, it will not be possible to improve the quality of drivers and their pay and conditions without licensing reform, removal of traditional bailment arrangements and measures that reduce costs and increase revenues of taxi operation. Similarly, it will not be possible to improve services for people with a disability in isolation from general solutions for improving driver quality and licensing reform, as well as implementing specific changes such as a more reliable booking system for wheelchair accessible taxis (WATs).

The reform package can be implemented over a number of years and be monitored by the new industry regulator, the Taxi Services Commission (TSC). However, major reforms should commence immediately to ensure that Victorians see and experience the benefits of change as quickly as possible.

The reform pathway set out by the Taxi Industry Inquiry focuses on what needs to be done to give consumers a quality experience when they choose to use taxi and hire car services. In other words, the inquiry’s recommendations focus first and foremost on what’s good for taxi and hire car users, not on what’s good for the industry – although significant benefits will also accrue to those industry participants who are willing to embrace change. In particular, these reforms will reduce regulatory burdens, remove the barriers to new entrants in a number of areas and help the industry to develop new services and expand into new markets.

The evidence is compelling: allowing the taxi and hire car industry to continue in its current form is untenable. Hard decisions for industry reform need to be taken today and not deferred, as has happened so often in the past.

The inquiry's long-term vision for the future of Victoria's taxi and hire car industry

Taxi and hire car services are a small but vitally important part of the transport system in Victoria. They provide flexible, point-to-point transport that gives people a level of mobility not offered by other services such as trains, trams and buses. For people using public transport, taxis can provide the critical last connection to home to complete their journeys. Taxis are important to the business and social lives of Victorians, and for tourists and visitors to the State. Crucially, taxis – and to a lesser extent – hire cars provide a vital means of transport for Victorians with special travel needs, such as elderly people or people with a disability, and when other forms of public transport or private vehicle use are not available (such as late at night or in small towns and isolated rural communities). Taxis are an important means of transport for people who have been out drinking and who should not be driving their own vehicles. The taxi and hire car industry makes an important contribution to the Victorian economy.

For these reasons, a high performing taxi and hire car industry that offers consumers a wide range of point-to-point travel choices is very valuable to the Victorian community and economy.

The taxi and hire car industry today is a complex one, burdened with extensive and ineffective regulation, and failing to innovate and deliver the types of service and level of service quality expected by the community. The package of reforms recommended by the inquiry sets the course of the industry in a new direction, aiming to create a different and better future for the industry over several years. **The inquiry's long term vision is that the taxi and hire car industry evolves to become more open, competitive, diverse and dynamic, and much more responsive to the requirements of customers.**

Our vision for consumers

A strong customer-focus – and a willingness to explore better ways of providing services – will be the hallmark feature of a continually evolving taxi and hire car industry. Services will be reliable, safe and readily accessible and will be offered by a range of different service providers: from individuals to groups of businesses and larger networks.

Consumers will have a wider range of services from which to choose, multiple ways to pre-book services (including online and smartphone applications) and a range of options in relation to price, vehicle type and travel experience. These services will be shaped to respond to customers' current and emerging needs. There will be services such as share rides and taxi shuttles operating across the state and, in parts of regional Victoria, taxis will operate as small buses, filling gaps in the public transport network and providing affordable access to employment, services and recreational activities.

An expanded and vibrant hire car market will be operating alongside taxis, expanding the choice of pre-booked point-to-point services available to consumers. Some of these services will be 'luxury' services; others will offer different types of service, depending on what the market wants. At Melbourne Airport, information kiosks will be available to explain the available transport options to consumers and bring greater order to the booking and provision of hire car services.

People with a disability or reduced mobility will have access to reliable and safe taxi services – and to a broader range of services – and will have to wait no longer than other taxi users for a cab. Taxi drivers will be better trained in assisting people with a disability. Better targeted financial assistance will be available to support consumers with reduced mobility to access point-to-point transport. Taxi organisations that offer wheelchair accessible taxis will provide a highly responsive service that meets minimum standards set by government.

Information about the taxi and hire car industry will be publicly available and it will be easy for consumers to verify details about particular taxi organisations and drivers, the services they offer, the prices they charge and how they are performing. The industry regulator will have ongoing and direct access to data that enables it to monitor the industry more effectively, resolve complaints more quickly and make better decisions about industry policy and regulation.

Our vision for the industry

Obtaining a taxi or hire car licence will be less costly, providing an affordable opportunity for any person who meets approval criteria to enter the market, and allowing the market (rather than Government) to determine the balance of supply and demand.

Competition, not regulation, will be the main driver for improved standards. Where standards are set, they will relate to driver and passenger safety, accessibility and service quality, and be focused on outcomes rather than on prescriptive requirements. Regulatory 'red tape' and compliance costs will be greatly reduced, and regulation will no longer stand in the way of taxi networks and taxi and hire car businesses pursuing new services or competing for bus or community transport work. Taxis and hire cars will be considered in transport planning and better integrated with public and community transport services.

The industry will not be concentrated within a handful of major players; it will be much more diverse and dynamic, with a range of large and small service providers and networks offering greater choice and flexibility in services. The costs of operating a taxi will be lower and service providers will have more choice in the networks they join, the services and equipment they purchase, and the types of service they provide. Taxi businesses and networks will have more incentive to adapt and provide innovative services within a streamlined regulatory system where compliance will be less costly and more efficient. There will be more networks and businesses of various sizes that offer a bigger range of services. There will be an expanded range of pre-booked, door-to-door travel options, opening up new opportunities for networks and taxi and hire car businesses to tap into new markets.

Taxi drivers will be better qualified and paid and will work under improved conditions, enabling the industry to attract and retain high quality and experienced drivers. There will be more owner-drivers as a result of more affordable opportunities to obtain licences. Drivers will have excellent knowledge about the cities and areas where they are driving, will be seen as 'ambassadors' for Melbourne and Victoria, and will be respected and valued within the industry and by customers.

Customers First: Service, Safety, Choice

The inquiry's proposed reform package – *Customers First: Service, Safety, Choice* – sets a new direction for the industry toward our vision for the future. The package has three core aims: increasing and improving the supply of taxis and hire cars, restoring trust in the taxi industry and boosting the demand for taxi and hire car services. Key reforms are highlighted below. The package is set out in detail in chapter 23. As noted earlier, these recommendations should be considered as an integrated package of reforms that will need to be implemented in full to have the required impact.

INCREASE AND IMPROVE SUPPLY

There will be more taxis and hire cars on the road, more competition and innovation in the market for pre-booked services and more opportunities to enter various segments of the taxi and hire car markets. Customers will benefit from greater availability and choice of services, and from more reliable and accessible services.

More taxis

The inquiry proposes to change the restriction on the issue of taxi licences across Victoria from a restriction on the numbers available to a policy whereby, for a set price, any qualified person can purchase a new licence from the Government at any time. There will be no quantitative limit on the number of licences issued and no restrictive 'public interest' test applied by the regulator. New licences will not be free but will have fixed prices to be paid annually.

This change will mean that the number of taxi licences, and therefore service availability, will increase over time and will no longer be subject to regulatory decision-making. Instead, the decision to enter the market will rest with those who are best placed to make commercial judgements – individuals and firms already in the industry and those outside the industry who are willing to risk capital in a new competitive venture. Importantly, this new approach will give existing drivers and assignee operators an opportunity to purchase a taxi licence and become taxi business owners themselves without having to meet in one payment the high cost of current licences.

All new licences will be available for a five year term at a fixed price, paid upfront each year. The new licences will be able to be sold but will not be able to be 'assigned' – that is, the holder of the licence must operate, and be fully responsible for, the service provided under the licence. Licences will have a uniform set of conditions and will be issued to provide services in four specific taxi zones. The new zone system allows appropriate prices to be set for new licences in the different service areas and ensures services will be provided to low profit areas. It also reflects the adoption of a principle of rationalising zones where possible to promote competitive and efficient service.

- *Zone 1: Greater Melbourne* – This zone will combine the existing metropolitan and outer suburban zones (Dandenong and Frankston).
- *Zone 2: Urban* – This zone will combine the regional cities of Ballarat, Bendigo and Geelong (currently deemed as separate urban zones) and other service areas where current licence values are above \$200,000.
- *Zone 3: Regional* – This new zone will comprise service areas where current licence values are between \$100,000 and \$200,000.
- *Zone 4: Country* – This zone will comprise all other parts of the State not covered by Zones 1, 2 and 3.

In the Greater Melbourne zone, the inquiry considers that an appropriate price for a new licence, one that reflects the balance of interests between existing licence holders, other industry participants and consumers, is \$20,000 per year for a conventional licence and \$16,400 per year for a WAT licence (price approximates the current market discounting of WATs). This should not be increased or indexed over time. This price will also effectively cap the return on existing conventional licences (the assignment fee) at \$20,000 per year, enabling existing investor licence holders to continue to obtain an income from their licences.

At this price, there will likely be some new entry, but it will not be dramatic. In the longer term, the effects will be more significant. Licence values will no longer feed into higher taxi fares; the number of owner-drivers will increase; and the industry will be better placed to meet changes in demand and to seek out new opportunities.

This new licence policy should be extended across Victoria and the restrictive 'public interest' test removed. The inquiry has heard that problems of restricted supply and availability are more problematic in regional areas, where growth in new licences trails population growth. This is reflected in very high licence values, even in towns with fewer than 50,000 people.

Taking into consideration the same balance of interest issues and using recent licence transfer values (or, where no value is available, inferring a licence value from areas with similar service populations and number of licences), the inquiry's recommended licence prices for the three non-metropolitan zones are:

- *Zone 2: Urban* – conventional \$12,000 per year; WAT \$9,400 per year
- *Zone 3: Regional* – conventional and WAT \$6,500 per year
- *Zone 4: Country* – conventional and WAT \$2,000 per year.

Details of how the inquiry has grouped these service areas and reached these recommended prices are set out in chapter 23.

More hire cars

The inquiry is proposing a relaxation of the regulation covering hire cars to enable them to provide a wider range of services. Under the inquiry's reforms, hire cars will be known as Pre-booked only cabs (PBOs). As with taxis, the public interest test currently applying to the issue process for country hire car licences will be removed and all new PBO licences will be granted 'as of right' to approved applicants who wish to purchase them at a set price.

Separate metropolitan and country hire car zones will be abolished and new and existing licences will be authorised to operate a pre-booked service anywhere in the state. A consolidated, uniform PBO licence will be adopted statewide with a uniform set of conditions. Licences will be of no fixed term, be permitted to be sold but not assigned, and restricted to pre-booked operation only.

PBO licences will be available for purchase at any time to approved applicants at a one-off set price of \$40,000. The approach recommended here in relation to the way licences are to be issued is not a substantial change from that which currently applies.

The current requirement for vehicles to meet the value of the luxury vehicle tax threshold will be removed and replaced with new minimum vehicle standards that allow for greater choice and flexibility in the types of vehicles selected for providing PBO services.

Over time, the inquiry expects these changes to increase service availability and lead to the emergence of more diverse pre-booked services, ranging from the luxury, 'high end' market to more affordable and/or specialised services. These developments will give Victorians a much greater choice in point-to-point travel options.

More diverse and better vehicles

Restrictions on the types of vehicles that can be used as taxis and hire cars should be relaxed, generating greater choice for taxi users and enabling the industry to offer new services and attract more customers. In particular, the inquiry is recommending the removal of current impediments to using purpose built, universally accessible vehicles that are already available, such as the London black cab.

Taximeters capable of voice transmitting elements of the fare, better dome light design and the ability to use smartphones to identify taxi owners and drivers should become features of taxi vehicles.

Advertising on taxis and hire cars will be permitted, subject to strict rules to ensure vehicles maintain a professional image. This will give taxi businesses an additional source of revenue, improving their viability, especially in country areas.

The inquiry is also seeking the community's views on removing the requirement for taxis to be painted yellow in the country and regional zones, and allowing networks in the Greater Melbourne and urban zones to choose their own distinctive livery (to be approved by the regulator), enabling them to offer more noticeable brands and improving competition.

More networks and more choices for taxi businesses

The inquiry considers that major reform to regulation affecting network service providers is required in order to improve performance. In particular, regulation that results in market power and restricts competition should be removed.

Under the inquiry's reforms, networks and other groupings of taxi service providers will become Authorised Taxi Organisations (ATOs) and will take greater responsibility for maintaining service standards and quality amongst their members (see *A new permit system of approval and responsibility for service*).

The requirement for taxi operators (who will become 'permit holders' under the proposed new streamlined system) to affiliate with a network (ATO) will be removed. Taxi permit holders will be free to join one or more approved ATOs or they may choose to operate independently, provided they meet certain safety and service standards, including greater oversight by the regulator.

Entry requirements for ATOs will be reduced, cutting the regulatory burden on these organisations and encouraging new entrants and competitors. Through these measures, the inquiry aims to support the development and growth of a market where ATOs will have to compete to supply services to taxi permit holders and drivers, as well as taxi users. The reforms will also encourage new participants to enter the market to deliver innovative booking and other services.

Over time, these reforms should lead to more ATOs of various sizes and specialties, and consumers who are better informed about the services, price and performance being offered by these organisations.

RESTORE TRUST

Service standards and driver quality will improve through the introduction of a new streamlined permit system and better training, testing and remuneration of taxi drivers. Taxi permit holders (operators) and networks (ATOs) will be directly responsible for the services they and their members provide; information about service performance will be readily available to consumers; and there will be clear avenues to resolve complaints.

Better quality drivers

It is very clear that the critical element in a satisfactory taxi or hire car experience is the quality of the driver. It is equally clear that Victorians are generally dissatisfied and disappointed with the quality and behaviour of taxi drivers.

The inquiry is recommending a package of reforms to improve the taxi industry's ability to attract and keep good, experienced drivers.

The inquiry's licensing reforms will significantly lower the barrier to entering the taxi market. This will give drivers with aspirations to forge a career in the industry a clear path to purchasing and operating their own taxi and/or PBO businesses.

The taxi driver accreditation scheme will be retained, but with changes made to toughen up entry requirements, improve the training curriculum and introduce independent testing. All taxi driver applicants will be required to have held a Victorian Driver Licence for a minimum 12 month period prior to being accredited, ensuring a minimum level of experience with Victorian road conditions and laws.

New Greater Melbourne zone drivers will be required to undertake and pass an independent examination known as the 'Greater Melbourne Knowledge', which will test drivers against the competencies of the taxi driver training course, including local knowledge, English language, customer service skills (including for customers with a disability) and safety awareness.

While recognising that training is an important element in building the pool of quality drivers, the inquiry's strong view is that the most important factor is increasing drivers' remuneration and improving their working conditions. While acknowledging the difficulties involved in improving taxi driver pay and conditions, the inquiry believes that efforts can and should be made to overcome these difficulties. Having considered a range of alternative approaches, the inquiry is proposing a new mandatory Driver Agreement that must be entered into by all taxi permit holders (see *A new permit system of approval and responsibility for service*) and drivers. The Agreement will contain minimum terms, conditions and payment arrangements published by the Victorian Government.

The new Driver Agreement will replace existing bailment arrangements and will include conditions such as Occupational Health and Safety responsibilities, insurance obligations, service standards required of the driver and dispute resolution mechanisms. The inquiry is also proposing to establish a better revenue sharing arrangement for drivers within the Driver Agreement. A minimum percentage is recommended of no less than 60 per cent of the fare box revenue that must be paid to the driver. An alternative of establishing a minimum hourly rate for the hours drivers work in peak and non-peak times, or possibly allowing drivers and permit holders to choose between either a specified minimum percentage of fare box revenue or minimum hourly rates when entering into the Driver Agreement, is also outlined. The inquiry welcomes the views of industry and stakeholders on these further options.

The inquiry has been mindful of the fact that, because driver remuneration has been forced to such low levels under the current system, there is a practical issue of how taxi permit holders will be able to afford to pay higher remuneration for drivers. The inquiry has made a number of recommendations that directly seek to enhance the viability of taxi permit holders and lower their costs, boost demand for taxi services and make it possible for them to pay their drivers more. With this in mind, if the minimum share of fare box revenue is adopted, the inquiry considers that a rise from the current industry practice of 50 per cent paid to the driver to a minimum of 60 per cent strikes a reasonable balance between affordability and the interests of drivers – and ultimately passengers.

Improving driver pay and conditions is critical to attracting and retaining quality drivers and addressing a key concern Victorians have about taxi services. The inquiry recommends that, in year five of the reform implementation program, the TSC review the continuing necessity of the Driver Agreement. At this point, the TSC should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with employment arrangements, as well as growth in numbers of owner-drivers and other indicators of industry retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

Improved safety for drivers and passengers

While the safety aspect of taxi and hire car services is complex and multi-faceted – and requires responses from the industry, government, local councils, police and others – the inquiry considers that more can be done to improve the safety of taxi drivers and passengers. The inquiry has also found that a number of safety measures introduced in recent years have been reactive and ad hoc, with little investigation into their costs and benefits before imposing them on the industry and consumers, often at considerable expense.

The inquiry is recommending that, in future, regulatory impact assessments be required before the TSC implements any major safety initiative in the taxi and hire car industry.

The inquiry is also recommending:

- An immediate moratorium on the roll out of the new taxi safety cameras while the TSC undertakes a cost and benefit assessment of the application of the new camera standard in country Victoria. More generally, further consideration should be given to how to reduce costs and improve competition in the camera supplier market
- The inclusion of safety management responsibilities for taxi permit holders and drivers in the proposed new Driver Agreement, including a requirement on permit holders to provide a safe working environment
- The removal of the exemption for Victorian taxis and hire cars from the mandatory use of child restraints for children aged one year or older but less than seven years.

The inquiry's proposed move away from prescriptive regulation towards an outcomes-based approach will also apply to safety. This will mean that taxi businesses and drivers have more choice about how they achieve safety-related outcomes, but that these outcomes – and the efficacy of existing and future safety measures – will be heavily scrutinised and closely monitored.

Empowering consumers

The number of people and firms involved in the taxi and hire car industry, and their overlapping responsibilities, makes it confusing for consumers to identify who is responsible for delivering services, direct a complaint about poor service to the appropriate place or evaluate the performance of different service providers. The inquiry is making a number of recommendations to provide consumers with more information about the industry and its performance, and a more effective complaints process.

To increase transparency about the identity of taxi and hire car industry participants and accountability for service, a database of industry participants will be established and made available publicly on the TSC website. Technology improvements should be adopted to enable taxi users to use their smartphones to read a barcode in each taxi vehicle that provides information about the licence holder, permit holder and driver. The TSC will also have a much larger role in providing information services, advice and assistance to consumers to enable them to make informed choices.

Complaints about service delivery will primarily be the responsibility of service providers, with the TSC setting, monitoring and enforcing stringent performance outcomes.

A new permit system of approval and responsibility for service

The inquiry has found that, despite being detailed and prescriptive, the existing regulatory regime does not create accountability for the delivery of service standards; rather, it contributes to considerable confusion amongst industry participants and an avoidance of responsibilities that translates to poor outcomes for taxi users. The regime is far from 'best practice' and imposes unnecessary costs on taxi and hire car businesses. The inquiry is proposing a significant overhaul of the regulatory regime and is recommending that elements of the regime be repealed.

Two approaches are critical to this overhaul. First, the inquiry is proposing a new streamlined permit system that will clarify accountability for the delivery of taxi and hire car services and set minimum service standards for independent permit holders and ATOs. The new system will encourage greater competition between the suppliers of services and give them greater flexibility to offer customers quality services and products. Permit holders will be permitted to hold both taxi and PBO licences, providing an opportunity to expand and diversify their businesses by combining different service offerings and developing new products that appeal to existing customers or cater to new markets.

Secondly, the inquiry is recommending a stronger emphasis be placed on outcomes-based regulation, which will require clear outcomes to be achieved, but allow industry to choose how to deliver these outcomes. Prescriptive service standards will not be applied to ATOs; instead, minimum operating rules will be set out in regulation and the regulator will report on ATO performance, ensuring that this information is publicly available and accessible to consumers. ATOs will also be made subject to the consumer guarantee provisions of the Australian Consumer Law.

Over time, these measures should also increase the number of people in the industry who own and drive their own vehicles and clarify that existing licences that are transferable and assignable are held for investment purposes only, not for directly operating a taxi or PBO.

More accessible services

The inquiry received many submissions, letters and comments from taxi users with a disability, their families, carers and advocates, and disability service providers. It is clear to the inquiry that taxi services play a vitally important part in the lives and wellbeing of many people with a disability. Unfortunately, it is equally clear that people with a disability experience poor and unreliable taxi services more frequently and with more serious consequences than other taxi users in the community.

While the inquiry's general recommendations in relation to licensing reform, driver quality and vehicle diversity should improve the accessibility of taxi services for people with reduced mobility, the inquiry considers that a number of other more targeted measures are also needed to significantly improve the performance of services to this group of Victorians.

In making these specific recommendations, the inquiry has found that the number of WATs within the metropolitan taxi fleet appears to be sufficient – the problem is that these vehicles are not being organised and operated effectively. Accordingly, the inquiry is proposing the establishment of a central booking service for the Greater Melbourne zone to provide easier, more reliable booking of WATs. All WAT vehicles will be required to join the booking service, which will operate under contract to the TSC.

Other measures being proposed by the inquiry include:

- An expansion in the Multi Purpose Taxi Program (MPTP) to assist Victorians aged 80 years or over who have their private vehicle driving licences suspended by VicRoads as a result of a fitness to drive assessment
- Replacing the 'Tariff 3' surcharge on the distance rate with a flat fee, reducing the incentive for WAT vehicles to seek long fares from the airport instead of jobs for passengers using a wheelchair
- The retention of the WAT vehicle subsidy scheme for country and regional areas.

Improved regulation and a more effective regulator

The inquiry is proposing a fresh approach to restore public trust and industry confidence in the regulation of the taxi and hire car industry. The inquiry's recommendations aim to generate a fundamental shift in the focus of government regulation and in the balance between government, industry and market regulation.

The inquiry endorses the intention of the Victorian Government to establish the new regulator, the TSC, as an independent authority that operates separately from the Department of Transport and that is overseen by a multi-member commission. Building on this, the inquiry considers that more can be done to ensure the regulator's impartiality, accountability and overall effectiveness, and makes a number of recommendations to this effect.

The inquiry is also proposing that all regulation that affects the taxi and hire car industry be examined to assess continuing its necessity in light of the directions expressed by the inquiry, to reduce duplication and to ensure that, as far as possible, it is outcomes-based rather than prescriptive.

Importantly, the TSC should also have the power to require taxi permit holders to provide real time trip and shift data direct to the regulator and for ATOs to provide service delivery data on a regular and ongoing basis. This will require significant investment by the regulated but there will be significant pay offs as a result. This should greatly improve the TSC's ability to develop effective regulation and monitor its implementation.

Revenue obtained from the sale of new taxi and PBO licences should be directed to industry reform and the delivery of better services to the community, including support for safe taxi ranks, the extension of the MPTP and the creation of the new central booking service for WATs.

BOOST DEMAND

Removing impediments to taxis providing fixed route and share ride services, better integrating commercial passenger vehicles with the broader transport system and moving over time from fare control to fare competition will enable the industry to boost demand and realise its potential. It will also result in customers having a much greater choice in the types of services available.

New and more flexible services

The inquiry has concluded that taxis and hire cars are falling well short of realising their potential as key elements of the transport system in Victoria. In particular, the inquiry sees no justification for not allowing taxis and hire cars to compete either indirectly or directly with buses and other public transport, and for removing regulatory and other impediments standing in the way of the industry moving into new markets and improving occupancy trends.

The inquiry is recommending the removal of the requirement under the *Bus Safety Act 2006* for taxis with 10 or more seats to seek registration as a bus in order to operate 'set fare' or 'set route' services. Taxis will not be defined as buses and permit holders will be permitted to offer fixed route services without having to seek a separate and duplicative registration.

Legislative and fare setting impediments associated with the introduction of multiple hire services such as share rides and taxi shuttles will be removed. Commercial passenger vehicle services will be more fully integrated with other transport services in policy and planning, and consideration will be given to funding or utilising taxis as a complement or alternative to community and public transport.

To reduce waiting times for taxis, the inquiry is proposing the adoption of measures to increase the access taxis have to bus lanes along freeways and major roads.

Fares

The inquiry has reviewed the operation of taxi fare regulation in Victoria and found that the current system of regulation imposes some significant costs, alongside delivering benefits for consumers. The costs include that it discourages competition where it is feasible – particularly for pre-booked work – and that it restricts innovation by service providers that might offer higher quality, higher price services or services with a different fare structure. Further, the averaging effect of fare regulation creates distortions, as seen in short trip refusals and long queues of taxis at the airport. The inquiry's recommendations aim to reduce some of these costs and encourage more competition so that some of the benefits from price and service differentiation can be realised.

The inquiry is proposing a two stage process to move from fare regulation to fare competition over time. Taxi fares in the Greater Melbourne and Urban zones will continue to be regulated in the short to medium term, and determined by the Essential Services Commission (ESC) with input from the TSC. ESC decisions should be final. Fares set by the ESC will change from being prescribed fares (fixed amounts) to maximum fares, giving permit holders and ATOs the ability to offer discounted rates below the maximum fare to consumers. In country and regional zones, where pre-booked services predominate, the TSC will be empowered to allow a move from maximum fares to a price notification system following the implementation of licensing reforms in those areas. Following the first three years of the reform program, the TSC will assess the extent and effectiveness of fare competition to determine if it is suitable to move from maximum to notified and monitored fares in the Greater Melbourne and Urban zones in the future.

It is also proposed that fares be restructured and simplified. This will include better matching operators' costs with fares, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak), and increasing the flagfall and reducing the price per kilometre for the Greater Melbourne zone to address the undesirable practices of short fare refusal and airport overcrowding.

Reducing the service fee for electronic payments

The inquiry considers that the 10 per cent service fee charged on all electronic payments in Victorian taxis is excessive. The inquiry considers this high charge is linked to both a lack of competition in the payments systems markets and, more broadly, to the lack of competition in the taxi services market in which payment systems are used. The inquiry is recommending that:

- Barriers to entry into payments processing be reduced by changing the arrangements for the MPTP scheme and changing the approvals process for EFTPOS devices in Victorian taxis

- The 10 per cent service fee that is levied on electronic payments for taxi fares be brought under regulation as part of taxi fares and set at a level that better reflects the resource costs of providing the service. The inquiry recommends this be set at five per cent of transaction value unless further evaluation by the ESC as part of regular fare reviews determines otherwise.

The inquiry also notes that there are promising technological developments occurring in Australia and overseas that present alternatives to using taxi specific payment processing systems and that offer the benefit of lower processing fees for taxi users. The inquiry is recommending that any regulation in this area facilitate, rather than stifle, such innovation.

Guide to this report

This report is structured as follows:

Part A – Background and overview

This part of the report sets out the circumstances surrounding the establishment of the Victorian Taxi Industry Inquiry and the inquiry's Terms of Reference (chapter 1). It describes the principles and approach adopted by the inquiry and the inquiry's progress since May 2011 (chapter 2). A summary of the main themes raised with the inquiry is provided (chapter 3).

Part B – Victoria's taxi and hire car industry

This part gives an overview of the current structure, operation and performance of Victoria's taxi and hire car industry, including the various elements that make up the industry (chapter 4) and the industry's performance in key areas (chapter 5).

Part C – Regulating the industry

This part examines the regulatory regime governing the industry. Chapter 6 describes the history of taxi and hire car regulation and reform in Victoria and sets out the case for regulation of the industry. Chapter 7 summarises the current regulatory framework, while chapter 8 examines the role and performance of the industry regulator. Chapter 9 explores alternative approaches to taxi and hire car regulation from other jurisdictions.

Part D – Understanding and improving industry performance

Part D provides a comprehensive analysis of the factors influencing performance in taxi and hire car services. Chapter 10 assesses the impact of regulation on the performance of taxi and hire markets in the key areas of entry restrictions, licence assignment, fares and competition constraints. Chapters 11, 12 and 13 examine performance in the areas of networks, payment systems and driver quality. Chapter 14 explores specific issues in relation to hire cars. Chapter 15 discusses the role of taxis in providing transport access for people with mobility disadvantage. Chapters 16 to 18 explore specific issues relating to country and regional services, safety and sustainability.

Part E – Strategy for reform

This part sets out the inquiry's strategy for reform of the taxi and hire car industry. Opportunities for the industry to expand, access new markets and develop new services are examined in chapter 19. Chapter 20 describes options for setting and regulating fares. Chapter 21 examines taximeters. Chapter 22 sets out a fresh approach to regulating the industry and the future role, structure and responsibilities of the new industry regulator. Finally, chapter 23 discusses and explains in detail the inquiry's recommendations for reform.

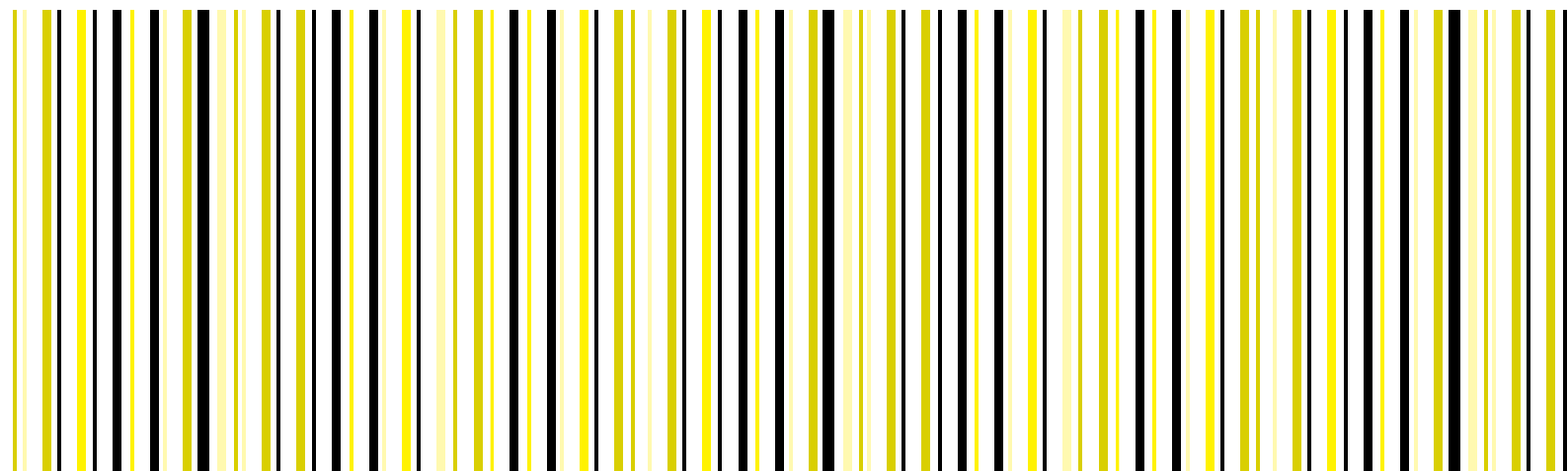
Appendices

The report's appendices include a more detailed description of the inquiry's community engagement activities, a list of public submissions received by the inquiry, details of publicly available research and technical papers accompanying the report, and additional information on dome lights and taxi brokers.



Part A

Background and overview



Chapter 1.

1. Inquiry background

On 28 March 2011, the Victorian Government established an independent inquiry into the Victorian taxi and hire car industry. Announcing the inquiry, the Victorian Premier, Ted Baillieu, identified a number of problems with the industry and stated:

It is obvious that the current industry structure and regulation has failed. It has entrenched a lack of accountability for on-the-ground taxi services by the major industry participants.¹

The Premier nominated key tasks for the inquiry as including improving low levels of public confidence, providing better security and support services for drivers and safety for customers, and ensuring drivers are properly trained and knowledgeable. The Premier indicated that he expected the inquiry to address “long-standing and deep-rooted” issues and to recommend “sweeping reforms” to the industry.

At the same time as establishing the inquiry, the Government announced a two-stage reform process for the Victorian taxi and hire car industry. In the first stage, the Taxi Industry Inquiry will conduct a comprehensive investigation into service, safety and competition issues in the industry. In the second stage, following the completion of the inquiry, a new Taxi Services Commission will take over the role of industry regulator from the Victorian Taxi Directorate. The Commission will operate as a statutory authority with powers to reform the industry.

1.1. Terms of Reference

The Taxi Industry Inquiry is being conducted by the Taxi Services Commission, a new body established under the *Transport Integration Act 2010*.

The Commission has been given a range of powers and responsibilities to facilitate the inquiry, including powers in relation to the collection and disclosure of information, the holding of public hearings and the publication of reports. These powers and responsibilities are contained in the *Transport Integration Act 2010* and the *Transport (Compliance and Miscellaneous) Act 1983*.²

The Taxi Industry Inquiry's Terms of Reference require the inquiry to undertake a wide ranging review of the Victorian taxi and hire car industry, focusing on core issues related to customer service, safety and the roles and accountability of industry participants. The overall aim of the inquiry is to instigate major and enduring improvements to key aspects of the industry.

¹ Office of the Premier of Victoria, Media Release (28 March 2011), *Taxi services reform to commence with industry inquiry*

² Copies of these Acts are available at the Victorian Legislation and Parliamentary Documents website: www.legislation.vic.gov.au

Terms of Reference

The Commission will have broad scope to review the sector and its performance against the following principles:

- Customer and service focus
- Safety for passengers and drivers
- Support for and training of drivers
- Integration with other forms of public transport
- An outcomes-based and accountable regulatory framework
- Market design that is effective, efficient and promotes competitiveness
- Sustainability, in economic, environmental and social terms.

The overall aim of the Commission is to instigate major and enduring improvements to service, safety and competition to Victoria's commercial passenger vehicle industry.

The inquiry should be wide ranging and consider all point to point transport services including taxis, hire cars and other demand responsive services with a particular focus on service outcomes.

The Commission should conduct broad ranging consultation to determine the views at all levels, including consultation with the general public and expert industry and other key stakeholders.

The Commission must prepare a final report and make recommendations focussing in particular on the following:

- The appropriateness of the structure of the taxi industry including the accountability of the range of industry participants with a particular focus on commercial incentives to participants including licence holders to improve services to passengers
- Service delivery and employee conditions, in particular the working conditions, training, standards and remuneration of drivers, and how these contribute to service standards and outcomes

- Competition in the sector, in particular focussing on vertical integration, anti-competitive practices and incentives for innovation
- The effects of regulation, particularly relating to entry to the taxi market through capped licence numbers and to price controls and taxi fare setting arrangements, and how these impact on customer service and innovation
- The performance of the Multi-Purpose Taxi Program and Wheelchair Accessible Taxis in providing service to people with disabilities and a broad range of mobility disadvantaged people
- The current and potential role of taxis, hire cars and other demand responsive transport services in an integrated transport system, with a focus on the role of these services in social inclusion
- Options for reform including benchmarking safety and service standards, appropriate market-based, legislative and administrative solutions, and communication technology advancements that may be harnessed, to facilitate improvements in the safety, service and environmental performance
- The appropriate regulatory and service model for long term regulation and operation of the industry, focussed on service outcomes
- Examine, evaluate and report on other models and new approaches in the taxi and hire car sectors both in Australia and overseas
- Transitional arrangements from the current regulatory and service arrangements to the recommended model
- Any other related matters.

The inquiry team

The Taxi Industry Inquiry is headed by Professor Allan Fels AO, assisted by Dr David Cousins AM. Professor Fels and Dr Cousins are supported by a team with expertise in the taxi industry, transport economics, regulatory regimes, competition policy and other specialist areas.



Professor Allan Fels AO

Professor Allan Fels AO is Dean of the Australia and New Zealand School of Government. He was Chairman of the Australian Competition and Consumer Commission (1995 to 2003); the Trade Practices Commission (1991 to 1995); and the Prices Surveillance Authority (1989 to 1992). He was co-chair of the OECD Trade and Competition Committee from 1996 to 2003. Professor Fels was Director of the Graduate School of Management of Monash University, and Professor of Administration at Monash University (1984 to 1991). He is a Patron of the Mental Health Council of Australia and of SANE, Chairman of the Haven Foundation which provides accommodation, care and support for mentally ill people, and a member of the National Mental Health Advisory Board.

Professor Fels is or has been a member of a number of advisory boards to the Australian and Victorian Governments. He was appointed an officer of the Order of Australia in 2001.



Dr David Cousins AM

Dr David Cousins AM is a consultant and Adjunct Professor with the Centre for Regulatory Studies, Faculty of Law, Monash University. He is an economist who has had senior positions in government, university and private consulting. He was a Commissioner with the State Services Authority Victoria and Professorial Fellow with Monash University from 2008 to 2011; Director of Consumer Affairs Victoria (2002 to 2008); Commissioner Australian Competition and Consumer Commission (1999 to 2002); Director KPMG Consulting (1995 to 1999); Chairman Prices Surveillance Authority (1992 to 1995) and Member Prices Surveillance Authority (1989 to 1992).

In January 2009, Dr Cousins was appointed a Member of the Order of Australia in recognition of his contribution to consumer policy and its administration in Australia.

1.2. Issues leading to the inquiry

Announcing the Taxi Industry Inquiry, Premier Ted Baillieu identified the key problems with Victoria's taxi industry as:

- Low customer satisfaction
- Safety and security for passengers and drivers
- Insufficient support for drivers
- Too many poorly-skilled drivers with inadequate knowledge
- A high turnover of drivers resulting in a shortage of experienced drivers
- Complex ownership and management structures
- A lack of competition
- Too much industry revenue not being directed to the service providers – the taxi drivers and operators.³

The Premier described the industry as “troubled” and in need of “significant reform to drive improvements in service”.

Introducing the legislation to establish the Taxi Services Commission in June 2011, the Minister for Public Transport, Terry Mulder observed:

Victorians are fed up with the never-ending problems in the taxi industry and the appalling reduction in levels of service over recent years ... While many taxi operators and drivers do a good job, the problems driving customer dissatisfaction are clear: the long queues for a taxi in the Melbourne CBD and other entertainment districts on a Friday or Saturday night, drivers who do not know where to go, taxis that do not turn up, drivers who will not accept a short fare, violent incidents and unsafe behaviour.

Victorians are embarrassed when a dirty taxi or a poorly trained driver gives international visitors an unfavourable first impression of Melbourne. They are angry when they hear that taxi licences cost up to half a million dollars while taxi drivers are earning less than the minimum wage.⁴

In May 2011, the commencement of the inquiry was accompanied by media reports of the Victorian Department of Transport (DOT) Customer Satisfaction Monitor (CSM) recording the lowest levels of satisfaction with taxi services since the survey began in 2005. Key problems identified by the CSM included difficulties in obtaining taxis off the street and at ranks, a lack of information about taxis and poor passenger experiences.⁵

There has also been a significant increase in formal passenger complaints about taxi services lodged with the Victorian Taxi Directorate in recent years, with the number of complaints trebling between 2004 and 2010.⁶

These problems reflect longstanding concerns and complaints about the performance of taxi services raised through formal and informal channels by taxi users, business and tourism groups, community organisations and local councils, as well as by many industry participants. Generally, these issues have been accompanied by dissatisfaction from both within and outside the industry about aspects of the taxi market's structure, operations and regulatory environment, and by considerable public debate about the impact of deeper structural and systemic issues on the industry's competitiveness and performance.

The DOT has recognised the deep seated nature of the industry's problems for some time and has been supportive of this inquiry, as have other economic regulators and central government agencies in Victoria. The DOT has also seen the inquiry as a continuation of the broad transport reform agenda it had been leading in Victoria and nationally in recent years.

3 Office of the Premier of Victoria, Op. Cit.

4 Parliament of Victoria, Legislative Assembly, 2 June 2011

5 See chapter 5

6 See chapter 5

Chapter 2.

2. The inquiry's approach

The inquiry formally commenced on 12 May 2011 with the release of a background paper, *Setting the Scene*, that outlined concerns with the industry, posed questions for consideration by the inquiry and called for submissions from the Victorian community and industry participants.

2.1. Key principles

In accordance with its Terms of Reference, the Taxi Industry Inquiry's broad approach has been to review the performance of taxis, hire cars and point-to-point transport from first principles – going beyond an examination of the current structure, regulation and performance of the industry to determine what 'best practice' taxi and hire car services might look like.

In doing this, the inquiry has been conscious of the fact that there is little point in undertaking reform of the industry if the resulting outcomes fail to meet the requirements and expectations of the Victorian community. The inquiry's position has been that all elements under investigation should be assessed against the service consequences for taxi users.

The inquiry's approach is summed up in the observation of Dr Ron Ben-David, Chairperson of the Victorian Essential Services Commission:

The once-in-a-generation opportunity handed to this inquiry to 'reconceptualise' the reform agenda suggests that the inquiry should not be bound to the known taxi industry in its thinking. Its thinking should not start with licence holders, assignees, drivers and bailment agreements, network service providers, electronic transaction providers or regulators. Rather, it must go further back; much further back; all the way back to the service offering. What is required (by consumers) and what is to be produced (by whoever) in order to meet that demand?

In this context: Taxis are a service, not an industry.¹

¹ Ben-David, Ron (September 2011), *Taxi reform: Putting an end to the rents and myths – Paper prepared for the Taxi Industry Inquiry*, Melbourne, p.8

To explore potential reforms in this context, the inquiry used a number of methods to develop a clear understanding of what Victorians need and want from taxi and hire car services, the unmet demand for these services and whether better and new services are being hindered by the current regulatory regime governing the industry. In examining options for regulatory and other reforms, the inquiry focused particularly closely on the potential impact of reforms on the consumers of taxi and hire car services.

The following key principles have guided the inquiry's work:

- Public interests are at the forefront of the inquiry's analysis and recommendations, particularly the interests of current and potential consumers of taxi and hire car services.
- A balance should be achieved between industry self-regulation, direct regulation by government and regulation by competition. There should be a larger role for markets and competition within the industry and a bigger role for industry self-regulation.
- Regulations that are not necessary to protect the public interest should be removed to reduce regulatory burden on the industry. The regulatory regime should be more effective and efficient.
- Reforms proposed by the inquiry should support an efficient, competitive and innovative industry.
- Reform must be evidence-based and practically achievable within a reasonable timeframe.

2.2. Inquiry activities

From May 2011 to March 2012, the inquiry's activities have included:

- Conducting customer surveys and surveys of taxi and hire car licence holders, operators and drivers
- Consulting with individuals and organisations with an interest in taxi and hire car services, including customers, businesses, disability service providers and advocacy groups, local councils, unions, academics, government departments and agencies, and industry bodies
- Consulting with industry participants, including drivers, operators, licence holders, network service providers and state and national associations
- Hosting forums for taxi drivers, hire car operators and mobility disadvantaged taxi users
- Hosting an independent roundtable of economists and transport experts
- Visiting regional areas and hosting nine regional forums across Victoria

- Issuing eight publications, including issues papers on taxi services in regional Victoria, booking services and hire cars
- Reviewing submissions to the inquiry and conducting in-depth interviews with selected respondents
- Maintaining active social media platforms for the duration of the inquiry
- Collecting and analysing industry data
- Commissioning specialist consumer and economic research
- Developing and modelling reform options
- Visiting other jurisdictions to study taxi and hire car service models and consulting with regulators in Australia and overseas.

The inquiry team has endeavoured to meet or talk with as many interested people and organisations as possible and provided a number of channels for people to contact the inquiry, including mail, email, telephone, Facebook and Twitter.²

The inquiry received a total of 393 submissions in response to the *Setting the Scene* background paper and accepted submissions, letters and email comments until 17 February 2012. All submissions have been considered by the inquiry. Non-confidential submissions are available on the inquiry website.³

2.3. Inquiry methodology

The inquiry took the following approach to its investigation of the Victorian taxi and hire car industry:

- Understanding the current structure and operation of the industry (see Part B)
- Identifying problems within the industry and exploring their underlying causes (Parts B and D)
- Examining the reform approaches adopted in other jurisdictions (see Part C)
- Identifying the current regulatory framework and the role of the industry regulator, and analysing the case for regulation of the industry (see Part C)
- Understanding the impact of regulation on the industry's performance (see Part D)
- Seeking the views of taxi customers and the broader Victorian community on what they want from taxi and hire car services, and canvassing the views of industry participants on how the industry's performance can be improved (see Part A)

- Identifying those aspects of the industry that should be regulated to improve performance and deliver services that meet customer and community demand, and recommending a strategy for reform to improve service and other outcomes (see Part E).

The inquiry has drawn on previous studies covering various aspects of the taxi and hire car industry, conducted its own research and commissioned external research. The inquiry has also undertaken detailed modelling to assist in the development and assessment of options for reform.

2.4. Obtaining information and data

Successful, effective and sustainable reform must be evidence-based. While a great deal has been written about the Victorian taxi and hire car industry – and extensive anecdotal material is available – the usefulness and accuracy of this material varies widely.

All past investigations, reports and inquiries into the Victorian taxi industry have been frustrated to some degree by an inability to obtain concrete operational data by which the performance and other basic characteristics of the industry can be measured. Similar difficulties have been encountered by practically all past inquiries into the taxi industries of other Australian and international jurisdictions.

Because such concrete data has been so difficult to obtain, researchers and policy makers have typically had to resort to survey data, industry supplied estimates and the cooperation of a small sample of industry participants, such as taxi operators, who have kept records of reasonable quality.

While these methods have merit, data collected in such a fashion has an inherent tendency to reflect errors. This is because, among other things, certain variables and industry segments may not be represented in the samples, and degrees of self-interest mean that information might be supplied selectively.

The Taxi Industry Inquiry has obtained more information and knowledge about the Victorian taxi and hire car industry than any of these reviews, and has subjected this information to analysis and modelling. However, in a number of areas, the inquiry continues to be limited in its ability to recommend reforms due to a lack of adequate data, the reluctance or inability of the industry to provide relevant or useful data, and the failure of the industry regulator to collect such data.

² See Appendix A for a description of the inquiry's community engagement

³ See Appendix A for a full list of submissions received by the inquiry

The inquiry's data collection efforts

From the outset, the inquiry considered that a comprehensive and accurate industry dataset would be critical in reaching evidence-based conclusions from which effective and achievable reform recommendations could follow. A data collection strategy was devised and implemented in the earliest stages of the inquiry.

To some extent, the inquiry was already in a relatively advantageous position regarding the kinds of data it could request from the Victorian Taxi Directorate (VTD). The VTD holds driver and vehicle shift records as a by-product of Multi Purpose Taxi Program (MPTP) administration, and, in recent years, the standard of data held about industry participants has been greatly enhanced through the implementation of the taxi industry accreditation scheme.

Further, the *Transport (Taxi-cab Industry Accreditation) Regulations 2007* specify records that taxi operators and network service providers (NSPs) are required to keep. Of the three schedules in the regulations that prescribe record keeping requirements, Schedule 2 – records to be kept by large NSPs – is the most comprehensive. Schedule 2 effectively formed the basis of the inquiry's initial data request to industry.

The inquiry believed that its request could be met with relative ease by large NSPs, given that the majority of data requested was already required to be kept by those NSPs. Nine NSPs in Victoria are defined as large (having 40 or more affiliated taxis): the four metropolitan NSPs, the two outer suburban NSPs and the respective NSPs based in each of the three urban zones. These NSPs were presented with the inquiry's data request in July 2011.

The data request asked for detailed information under the following twelve broad categories:

- Trip Data
- Shift Data
- Emergency Warning Device Data
- Complaints Data
- Disciplinary Procedure
- Communications System Failure
- Global Positioning System (GPS) Failure
- Training Provided
- Affiliation Agreements
- Account Records
- Payment Records
- Fleet Data.

For the most part, these twelve categories mirrored Schedule 2 of the regulations with one notable exception: whereas the regulations only require NSPs to report (and supply to the licensing authority if requested) details about trips *booked* through the NSP, the inquiry required that the NSPs provide details for *every* trip undertaken by each taxi affiliated to the NSP. Furthermore, the inquiry required a far greater degree of detail about each trip, such as the distance travelled for each trip, the latitude and longitude coordinates of the trip start and end locations, and, for a booked trip, the method by which it was booked.

The inquiry requested this enhanced detail about all trips, regardless of whether the trip was booked through the NSP, in the knowledge that all large NSPs had adopted dispatch systems that captured this level of detail. The inquiry considers that the dataset that it has managed to acquire and subsequently analyse is likely unparalleled by any that has been collected before during an industry investigation or by an industry regulator (without the benefit of having data streamed directly to the regulator from the fleet).

However, collecting the data proved particularly onerous. Without exception, each of the nine NSPs experienced some difficulty in supplying the data requested and, in some cases, demonstrated a reluctance to cooperate with the inquiry. The inquiry's ongoing frustration with the progress of data collection led to the issuing of a formal notice to each of the NSPs on 18 October 2011. The inquiry's consultation records reflect that follow-up and discussion regarding the data request involved more than two hundred instances of inquiry contact with the NSPs and, in some cases, their dispatch service providers.

Despite the inquiry's intense efforts, it took close to six months before even a portion of the requisite dataset could be secured. This portion enabled the inquiry to conduct some preliminary analysis, which gave an initial indication of state of industry activity. Nevertheless, even as the remainder of the data requested was provided, there were continuing problems. In many cases, data had to be resubmitted because it was incomplete or contained errors. Significant delays also arose due to some NSPs' lack of in-house technical capability to extract and compile the data, or because their dispatch service providers were unresponsive in providing technical support.

It was only towards the later stages of the inquiry's investigation that the inquiry acquired sufficient data upon which accurate modelling and analysis could be based. While some gaps remained in the raw data, the inquiry was able to confidently 'patch' the dataset, accounting for seasonality and extrapolating from the majority of the actual data. In effect, the result has been the development of a full dataset covering every trip by a metropolitan taxi in 2011.

The inquiry also had access to more than a year's worth of trip data for all outer suburban taxis and the vast majority of urban taxis. This data, combined with the shift data requested from the VTD, proved to be an extremely rich source of information and, as noted above, possibly the most complete and reliable dataset ever compiled about any Australian state's taxi industry.

This dataset was subjected to rigorous analysis by the inquiry, the results of which are incorporated throughout this report, particularly in chapter 5. The inquiry also had the industry data geo-coded, which provided detail relating to established taxi zones and the importance of Melbourne Airport to the metropolitan taxi fleet. The results of some of this work can be seen in maps throughout the report.

As mentioned above, the inquiry's initial expectation was that fulfilling the data request would be relatively straightforward for Victoria's nine large NSPs and that data collection could then focus on intermediate and small NSPs, and on at least a significant sample of taxi operators. Given the inquiry's experience with the ostensibly more sophisticated large NSPs, it became clear that extending the data collection strategy in this direction would be futile.

The lack of concrete data about country taxis means that the inquiry's analysis has been metropolitan-focussed. This is concerning given that the scant data the inquiry did obtain about country taxis, along with anecdotal evidence, suggests that the profiles of metropolitan and country taxi operations are quite different.

On the operator side, the inquiry was more fortunate in that a number of industry participants volunteered comprehensive and detailed data about their operations. These data was critical to ascertaining information around operator costs and also went some way towards substantiating the results from the inquiry's NSP data analysis. By issuing an operator survey, the inquiry attempted to cast the net further and collect a greater sample of operator data. As expected – given the inquiry's understanding of taxi operators' record keeping standards generally – this was met with limited success.

The absence of a reliable and comprehensive source of operator data remains an ongoing concern. The lack of data in this area, along with the lack of data on country taxis and the failure of large NSPs to provide accurate data in a timely manner, gives strong support to the argument for data to be collected directly from the cabs independently by the new industry regulator.

2.4.1. Concerns about inadequate data

The poor availability of accurate, reliable and timely data in critical areas is of concern for several reasons:

- It makes it difficult for policy makers to assess the success or otherwise of current regulations and policies, and to design and implement effective new policies.
- It makes it very difficult for the regulator to focus its attention on 'problem areas' or to adopt a risk-based approach to compliance.
- It constrains competition, as consumers have no means of comparing performance between taxi networks and/or operators.
- It greatly exacerbates the difficulties in integrating taxi and hire car services more fully with community and public transport services.

As Ambassador Taxis, Taxilink and Cabways note in their joint submission to the inquiry:

In the absence of verifiable data going forward, it is extremely difficult to gauge the ongoing performance of the industry, including the ability to monitor the effects of industry changes.⁴

Manually collating data is also labour intensive and costly on both the industry (in collecting and collating the data) and on the regulator (in converting the data into a useable form) and results in large amounts of unusable or untrustworthy data.

⁴ Ambassador Taxis, Taxilink and Cabways, Submission to the Taxi Industry Inquiry, SS233, p.7

2.4.2. The new regulator and information collation

It is essential that the same kind of data that has enabled the inquiry to measure the performance of the industry is made available to the new industry regulator, the Taxi Services Commission, on an ongoing basis to ensure that the Commission can monitor industry performance as a matter of course. In the immediate term, this will be important in assessing the effect of the inquiry's proposed reforms to ensure that these effects are positive; in the longer term, this data will be vital in adjusting policy settings as needed so that service delivery and safety is optimised.

The most effective way to collect this data is directly from the cab so that meter events and details including latitude and longitude coordinates can be obtained. Notwithstanding this, data will still be required from networks so that the performance of the booking aspect of taxi and hire car services can continue to be assessed and publicised.

Inquiry finding

- ➔ The poor availability of data in reaction to crucial aspects of the industry's performance hinders the development of effective regulation. The industry regulator needs timely access to reliable information and the best way to obtain this information is directly from the cab.

2.5. Compliance with the Transport Integration Act 2010

As noted in chapter 1, the Taxi Industry Inquiry is being conducted by the Taxi Services Commission, which is classified as a 'transport body' and 'transport system agency' under the *Transport Integration Act 2010*. This classification requires the Commission to have regard to a number of objectives and principles in exercising its powers, making decisions and performing functions. The inquiry has adopted governance processes to ensure that its approach and recommendations take into account the Act's objectives and principles.

These objectives and principles are summarised in Appendix C.

Inquiry progress

2011

May	→	Background paper <i>Setting the Scene</i> released Call for submissions to the background paper
June	→	Submissions to the background paper close
July	→	Issues paper <i>Improving taxi services for mobility disadvantaged Victorians</i> released VCOSS Taxi Forum
August	→	Regional visits to Horsham, Ararat and Stawell
September	→	Regional visits to Warrnambool, Mildura and Albury-Wodonga VCOSS paper <i>The Voices of Taxi Users</i> released <i>Setting the Scene – Submissions and Responses</i> released Independent Roundtable of academics and economists
October	→	Taxi drivers' forum Issues paper <i>Creating a fairer system for Victoria's taxi drivers</i> released Taxi driver survey and taxi user survey launched Regional visit to Bairnsdale
November	→	Issues paper <i>Improving taxi booking services for customers, drivers and operators</i> released Issues paper <i>Taxi services and what they mean for regional Victorians</i> released Taxi operator survey launched Regional visits to Ballarat, Bendigo, Shepparton and Traralgon
December	→	Issues paper <i>Hire car services and what they mean for Victorians</i> released Hire car operator and driver survey launched

2012

January	→	Issues paper <i>Taxi licences in Victoria</i> released Taxi licence holder survey launched Workshop for hire car operators and drivers
February	→	Submissions and surveys close
May	→	Draft report <i>Customers First</i> released

Chapter 3.

3. Main themes raised with the inquiry

As noted throughout this report, the Taxi Industry Inquiry has taken the view that there is little point in undertaking reform of the taxi industry if the resulting outcomes do not meet the demands and expectations of the Victorian community.

To ensure that potential reforms are explored from a service perspective, the inquiry adopted a strong consumer focus and implemented an extensive community engagement strategy. The strategy involved a number of methods to better understand what Victorians need and want from taxi and hire car services, their concerns about existing services and their suggestions for improving services.

Several mechanisms were used to canvass as broad a range of views as possible and provide different avenues of access to the inquiry team, including formal submissions, community forums, customer and industry surveys and confidential consultations. As noted in chapter 1, the inquiry received 393 submissions. The inquiry's social media strategy was highly successful, with over 6,500 passive Facebook views per month and 441 Twitter followers. The inquiry's online presence has proven particularly valuable, allowing contributors to raise and debate ideas and reforms, and capturing a wide net of interested people.

In addition to community engagement, the inquiry commissioned research into consumer concerns and issues, including:

- *Market research* – to understand customer experiences, views and attitudes in relation to taxi and hire car services
- *Consumer detriment* – to examine the impacts of poor services, both financial and emotional, on taxi use
- *Consumer demand* – to understand the demand sensitivities and elasticities of customers against a range of service choices and options.

The results of this research are reported in chapters 5 and 19 and referred to throughout the report.

A number of themes emerged from the inquiry's consultations and commissioned research submission, surveys and consultations and submissions. These themes reflect common concerns with taxi and hire car services raised by consumers, community and business groups, and industry participants. This chapter summarises the main themes raised with the inquiry. The views of taxi users, industry participants and others about the performance of taxi and hire car services are also noted in the relevant chapters of the report.

Details of the inquiry's community engagement program and research projects are set out in Appendices A and B.

3.1. Service quality and performance

The inquiry found widespread dissatisfaction with the quality, reliability, cost and availability of taxi services across Victoria. Many concerns raised in submissions and consultations relate to well-publicised issues that led to the establishment of the inquiry.¹ In addition, the inquiry's commissioned research on consumer detriment estimated the financial and time cost of poor taxi services over the previous 12 months at around \$133 million.²

Generally, taxi users feel there is room for significant improvement in taxi services, particularly in relation to the reliability and timeliness of booked services, the quality of drivers and the availability of cabs during peak periods.

More broadly, the research commissioned by the inquiry found that the average customer satisfaction rating with taxi services was 5.4 out of 10. Over one third (39 per cent) of taxi users reported having had a problem with taxi services in the last 12 months. More than half (52 per cent) of these problems related to 'unprofessional driver conduct', while half related to 'route issues'. Other problems related to driving infringements, fare refusals and issues relating to fares.³

¹ See section 1.2

² Latitude Insights (2012), *Taxi Services Commission: Consumer Detriment Research – Prepared for the Taxi Industry Inquiry*, Melbourne

³ Ipsos Social Research Institute (2012), *Taxi and Hire Car Research 2011 – Prepared for the Taxi Industry Inquiry*, Melbourne

Seeking the views of Victorians

The inquiry's comprehensive community engagement strategy aimed to ensure that as many Victorians as possible had an opportunity to contribute their views on the future of taxi and hire car services. The inquiry actively sought input from individual taxi and hire car users in Melbourne and regional Victoria, and from organisations with an interest in taxi and hire car services such as local councils, community service providers and business groups. Activities undertaken by the inquiry include:

- *Submissions to the inquiry* – The inquiry received 393 submissions over the course of the inquiry.
- *Community forums* – The inquiry hosted a number of forums, including community 'open houses' in regional centres and a forum co-hosted with VCOSS to discuss ways to improve taxi and hire car services for mobility disadvantaged people.
- *Consumer surveys* – The inquiry encouraged taxi users to complete an online customer survey, which was completed by more than 500 people.
- *Online access to the inquiry* – Victorians could download consumer surveys and send comments to the inquiry through the inquiry's website, as well as through a Facebook page, Twitter and YouTube.
- *Consultation* – The inquiry consulted directly with individuals and groups across Victoria, including local councils, community groups, MPs, transport experts and economists, and business and industry associations.
- *Commissioned research* – The inquiry commissioned research into customer behaviour and decision-making in relation to using taxis and hire cars, consumer detriment associated with taxi services, and demand for taxi and hire car services.

3.1.1. Service reliability

Many taxi users are dissatisfied with the current standard of taxi booking services provided through network service providers (NSPs). These concerns include:

- Difficulties booking a taxi over the phone during peak times with calls often going unanswered or callers waiting for long periods of time before an operator responds
- No certainty that a taxi will arrive at the time requested (or show up at all), even where it has been booked well in advance
- Unacceptably long wait times in Melbourne, with no communication from the booking service about why the delay has occurred or when the taxi may arrive
- The apparent inability of the booking companies to provide basic information to customers, such as where a booked taxi is or when it will arrive.

Many taxi users are mystified as to why the taxi industry is not using widely available technologies such as GPS tracking, smartphone applications and the internet to improve booking and other services.

These concerns about reliability are leading many consumers to turn away from the large booking companies, preferring instead to use regular trusted drivers or secondary networks (either accredited formal networks or informal groups of drivers). The benefits of using these networks nominated by users include being able to pre-book a taxi well in advance with confidence that it will turn up on time, being able to establish a regular schedule for taxi services (such as a weekly trip to and from the airport), and having access to a regular and trusted driver.

3.1.2. Driver quality

The inquiry found clear evidence that driver quality is central to whether customers are satisfied or not with taxi and hire car services. Complaints and concerns about the quality and competence of taxi drivers feature prominently in submissions and comments to the inquiry, and in forums and consultations.

The main concern about driver quality raised with the inquiry is drivers with poor local knowledge. This concern is raised repeatedly by casual and regular taxi users and by tourism-related businesses.

“The biggest problem I've got is that the drivers don't know where they're going.”⁴

⁴ Ibid., p.85

Some taxi drivers appear to lack appropriate training and knowledge of destinations. This is a particular problem for ... international or interstate guests wanting to get from Crown to other destinations around Melbourne.⁵

Other concerns include drivers taking indirect routes, limited competency in English, fare refusals (particularly short trip refusals and refusals to carry passengers with a disability) and poor conduct (such as unsafe driving and rude or discourteous behaviour).

Many people feel there has been a noticeable decline in the quality of taxi drivers in recent years. Some believe this is the result of too many inexperienced, part-time or temporary drivers working in the industry.

Taxi users and industry participants believe there is scope to improve driver accreditation and training practices: however, strong opinions have been expressed to the inquiry that poor driver quality is directly linked to low rates of pay and poor working conditions.⁶

Almost all taxi drivers who responded to the inquiry expressed dissatisfaction with their remuneration and working conditions, with most feeling that they work long hours for very low rates of pay. This is particularly the case for drivers who do not own the taxis they drive. These views are also held more broadly, with many members of the Victorian public believing that any industry reforms should improve pay and conditions for drivers. Many taxi users believe that better driver pay and conditions will enable the industry to attract and retain better drivers, with flow-on effects for overall service quality.

A number of submissions argue that taxi drivers should be recognised as employees, noting that the current arrangements deny drivers access to standard employee benefits such as regulated working hours, minimum rates of pay, sick leave, workers compensation and superannuation.

3.1.3. Service availability

The inquiry found considerable dissatisfaction with the availability of taxi services, with the main concerns being availability late at night in the Melbourne CBD (especially on Saturdays and Sundays in the early hours of the morning), availability during major events in Melbourne and general availability in outer metropolitan and regional areas.

A number of submissions raise the lack of services in Melbourne's outer suburbs where the country zone meets the metropolitan zone. Tourist areas that experience fluctuations in demand also report poor service availability at times of peak demand.

In central Melbourne, taxis are the main public transport service operating on Saturdays and Sundays in the early hours of the morning when there are still significant numbers of people in the city. One Victoria Police officer told the inquiry:

There are nowhere near enough taxis on Friday and Saturday nights between the hours of midnight and 7am. The city has over 1600 licensed venues and is a hub of activity during these nights and there is a significant shortage of taxis during these periods.⁷

The City of Melbourne believes that the current level of taxi availability at these times contributes to an environment where people are unable to leave the central city area and make their way home, which leads to a higher likelihood of conflict near late night venues. The council also reports that very long wait times at ranks leads to frustrated customers walking onto the road to hail taxis and conflict between customers and drivers.

In outer metropolitan areas, where Melbourne's public transport system is struggling to keep up with rapidly growing suburbs, taxi users, businesses and local councils have concerns about the poor availability of taxi services (especially in areas where there are only one or two taxi companies).

Generally, most taxi users feel that there are not enough taxis on the road in Melbourne or in large regional centres. However, many industry participants argue that there are too many taxis on the road in Victoria, that most taxis are underutilised for most of the time they are operating, and that increasing the number of taxis will reduce drivers' incomes.

The Victorian Taxi Association (VTA) contends that it is "simply unachievable" to expect a taxi to be "waiting and ready to go whenever and wherever someone wants" and that a more effective solution to improving late night transport options in Melbourne is to extend public transport operating hours, rather than increasing the number of taxis.⁸

⁵ Crown Melbourne Limited, Submission to the Taxi Industry Inquiry, SS88, p.2

⁶ Chapter 13 contains a detailed discussion of these issues

⁷ Dean Anderson, Submission to the Taxi Industry Inquiry, SS05, p.1

⁸ Victorian Taxi Association (VTA), Submission to the Taxi Industry Inquiry, SS60, p.7

3.1.4. Service affordability

With Australians increasingly nominating cost of living concerns as the most important issue facing the nation, it is perhaps not surprising that the cost of taxi services is raised in numerous submissions and discussions with the inquiry.

Specific concerns about fares are:

- The overall level of fares is too high.
- The current fare structure provides an incentive for drivers to queue for long periods at Melbourne Airport competing for a small number of highly lucrative fares, reducing the availability of taxi services across the rest of the city.
- The fare structure is not sufficiently flexible to allow new, more affordable services (such as share ride services) to emerge.
- The 10 per cent service fee charged by payment processing providers for processing non-cash payments is widely perceived as excessive, especially by the business community.

More broadly, the declining affordability of taxis is seen as having a particularly detrimental effect on Victorians who are already disadvantaged in their transport options:

- When added to other cost of living increases, the price of using taxi services is becoming prohibitive for people on pensions and low incomes.
- Even with the Multi Purpose Taxi Program (MPTP) subsidy, taxi services are too expensive for many people with a disability, especially those who need to use taxis regularly and those that need to travel long distances to access services.
- The cost of taxi services in outer metropolitan areas of Melbourne and smaller regional towns, where public transport service is relatively poor, restricts the mobility of people who do not have a car. Local councils report that this can have an impact on access to social and recreational activities for young people and elderly people in particular, increasing any pre-existing isolation and disadvantage.
- The cost of taxis means they are too expensive for long distance travel for people living in rural and remote communities. While bus services are usually available, in many small communities these services run infrequently or to a limited number of destinations. For residents without access to a car, these limited travel options can increase their social isolation.

These concerns are summed up by Ms Cath Smith, Chief Executive Officer of VCOSS:

For some people, taxis constitute an essential component of the transport system, which addresses mobility needs that may not currently be accommodated by any other transport service. People with a disability, low income earners, and those who live in transport disadvantaged communities are often high users of taxis and are the hardest hit by expensive taxi fares.⁹

There is very strong support within the industry for a fare increase, with the VTA and others noting that fares have not increased since December 2008 and have not kept pace with CPI increases and the rising price of LPG.

3.1.5. Safety

Drivers continue to be concerned about their personal safety, especially when driving late at night. While some drivers feel that safety has improved through measures such as protective screens, cameras, alarm systems and GPS technology, many believe that drug- and alcohol-fuelled behaviour is making their jobs more difficult than ever.

While Victoria's taxi industry is perceived generally as having a good record of passenger safety, some concerns have been raised repeatedly with the inquiry:

- Passenger safety late at night at taxi ranks – The industry, the City of Melbourne and councils in larger regional cities have informed the inquiry of their efforts to improve late night safety at taxi ranks through the development of safe taxi ranks and are proposing a number of options to further improve safety at ranks.
- Child safety – Specifically in relation to taxis being exempt from regulations that require children up to the age of seven to be restrained in an approved child restraint or booster seat.
- Women and people with a disability – Respondents report that women and people with a disability are more likely than other taxi users to report feeling unsafe travelling in taxis at various times, mainly due to inappropriate driver behaviour (such as drivers asking personal questions of women passengers and being aggressive or argumentative).
- Organisations representing people with a disability report significant concerns about inadequate wheelchair restraints or lack of driver knowledge in using them.

⁹ Victorian Council of Social Service (VCOSS), Submission to the Taxi Industry Inquiry, SS191, p.2

- Vehicle safety – Some taxi users are concerned about poorly maintained vehicles.

Generally, passenger safety is not seen by taxi users and the public as the sole responsibility of the taxi industry, but as a shared responsibility between industry (licence holders, operators and drivers), government and other organisations, such as Victoria Police, local councils, late night venues and the organisers of major events.

3.1.6. Taxi services for people with a disability

Around 10 per cent of submissions to the inquiry are from taxi users with a disability and organisations concerned about taxi services for mobility disadvantaged users. This significant group of consumers responded in large numbers to the inquiry's *Setting the Scene* discussion paper (comprising 25 per cent of all responses) and has also engaged with the inquiry through other means, including the joint Taxi Industry Inquiry-VCOSS forum.

While there is acknowledgement that services for people with a disability have improved, significant concerns remain. The most common concerns are:

- Very long waiting times (up to and exceeding three hours) for people requiring wheelchair accessible taxis (WATs), especially during peak times, with many users having little confidence in being able to book a taxi and receive the service in a reasonable timeframe
- Drivers being discourteous to passengers with a disability, including ignoring directions about preferred routes, taking circuitous routes to destinations when a passenger is unable to object and failing to provide assistance when it is clearly required, such as refusing to help a person enter or exit the cab
- Poor driver communication skills in providing services to people with a disability (especially where customers have sensory disabilities or difficulties in communicating their wishes) and a concern that drivers have a poor understanding of the diversity of people with a disability.

Taxi users and disability groups believe there is a need for improvements in driver training, as well as other reforms, to address these concerns and provide a much higher standard of service for people with a disability.

While the MPTP is generally viewed positively by people with a disability and the organisations supporting them, a number of concerns with the program have been raised with the inquiry, including:

- It is restricted to people with a severe or permanent disability, and is not available to people who are temporarily disabled or frail older people
- The subsidy caps disadvantage people who have a need to make multiple trips or who need to make longer trips, such as people living in rural and remote areas
- The complexity of the application process is a barrier to people accessing the program
- The financial hardship test for the program disadvantages people with a disability who are employed, but who lack any other means of getting to work.

Many contributors to the inquiry feel that the MPTP should be made more flexible and more responsive to the diverse needs of mobility disadvantaged taxi users.

3.1.7. Country and regional services

Not only do concerns with regional taxi services differ from those experienced in metropolitan Melbourne, the transport needs and the delivery of taxi services also vary from town to town and region to region.

Compared to Melbourne, there is a high level of satisfaction with taxi services in regional areas and there are fewer safety concerns for drivers and passengers due to passengers often knowing their driver, good vehicle maintenance and initiatives such as safe taxi ranks. However, taxi users, local councils and businesses and community groups report a number of concerns:

- Problems with availability in large regional cities, with taxi numbers failing to keep pace with population growth
- Long wait times in some areas
- A shortage of WATs and limited service choice and flexibility in services, especially in smaller towns and remote communities
- Poor integration with public and community transport
- Insufficient taxi services during periods of high visitor numbers in some regional tourism destinations.

3.1.8. Short trip fare refusals

Short trip fare refusals by taxi drivers in Melbourne feature prominently in submissions to the inquiry.

The Victorian Taxi Directorate (VTD) reports that more than 530 complaints lodged with the regulator in 2010/11 related to short trip fare refusals, with a large number of refusals reported during 3pm to 5pm on weekdays.¹⁰ Anecdotal evidence to the VTD suggests that the worst locations for short trip refusals are in central Melbourne.

¹⁰ Information provided by the VTD

The City of Melbourne, Crown Casino, Melbourne Airport and business groups report feedback from taxi users about drivers being discourteous when asked to accept a short fare, attempting to extract a fee above the metered rate for a short journey, making excuses for being unable to take the fare, or trawling the streets for longer fares near taxi ranks where requests for short trips are known to be common.

The City of Melbourne points out that the reluctance of drivers to accept short trips may have an adverse effect on perceptions of Melbourne as a good place to do business:

“The ability and more importantly a preparedness to move across and within the city on short trips for business people is a significant benefit to business.”¹¹

Community groups highlight the impact on people with a disability and older people of the reluctance of drivers to accept short trip fares. Travellers Aid, which is based at Flinders Street Station and assists travellers with a disability, told the inquiry:

“On many occasions, taxi drivers have refused the people we assist access to services on the basis that they are short fares. They actually ask where the individual is travelling before allowing them in the vehicle.”¹²

Case study

Positive experiences

While many negative comments about taxi services have been received by the inquiry from the Victorian community, a number of positive experiences have been reported. In particular, high levels of satisfaction are reported with the performance of secondary taxi networks in providing personalised, reliable services for regular customers. Benefits reported by taxi users include knowing which driver is coming and when, having access to a trusted driver and being able to negotiate flat fares for regular trips.

The inquiry has also received positive reports about individual drivers, such as drivers making special efforts to return personal items left in taxis, drivers who offer ‘extra’ assistance (such as helping elderly passengers with their shopping) and drivers with particularly clean and well-maintained taxis.

The inquiry heard many stories about a high standard of service being provided to taxi users with a disability and older people by their ‘regular’ drivers. The inquiry also received reports of regional taxi operators responding positively and professionally to requests from disability service providers to deliver customised services to people with a disability.

In its submission to the inquiry, Scope observes:

“A more personalised service from regular drivers has enabled many people to lead more inclusive lives in their community... For many people with disabilities who have complex needs, taxis would not be an option for them if these relationships could not be developed.”¹³

Reflecting this comment, one user told the inquiry of her experiences using a secondary network:

“What a treasure [my regular driver] has proved to be! If he can’t pick me up, he even texts me to see if I got home OK. Several times I have visited relatives in the country and he has made sure that I made it safely to Travellers Aid ... Customer service is his first priority.”¹⁴

Some respondents to the inquiry point out that while there are established avenues to complain about poor service, there are no well known or public ways of reporting good service. Others urge the inquiry to consider initiatives to recognise and reward excellent service, such as certificates that can be displayed in taxis, badges or insignia on uniforms, a ‘Driver of the Year’ award or an alternative pay structure that rewards excellence.

¹¹ City of Melbourne, Submission to the Taxi Industry Inquiry, SS166, p.10

¹² Travellers Aid, Submission to the Taxi Industry Inquiry, SS132, p.4

¹³ Scope, Submission to Taxi Industry Inquiry, SS67, p.15

¹⁴ Ruth Kruger, Submission to the Taxi Industry Inquiry, SS30, p.1

3.2. Regulation, competition and industry operation

A range of concerns were raised with the inquiry relating to the industry's structure, competition within the industry and the impact of the current regulatory regime on the industry's performance.

Seeking the views of industry

The inquiry actively sought the views of industry participants on their perceptions and concerns about the taxi and hire car industry, how services can be improved and fair and effective regulatory reform can be achieved. The inquiry has been particularly diligent in pursuing leading stakeholders who were under-represented in submissions to the inquiry.

Activities undertaken by the inquiry include:

- *Submissions to the inquiry* – Of the 393 submissions received by the inquiry, around 60 per cent have come from industry participants.
- *Regional forums* – The inquiry's regional stakeholder forums gave industry participants in regional areas the opportunity to raise issues and concerns directly with Professor Fels and the inquiry team.
- *Taxi drivers forum* – More than 50 taxi drivers attended a forum with Professor Fels and Dr David Cousins to share their experiences and views of the taxi industry.
- *Surveys* – Current Victorian taxi drivers, taxi operators and licence holders were invited to complete separate surveys, as were hire car operators. These surveys were distributed through the inquiry's website and Facebook page, as well as being available at forums and regional visits hosted by the inquiry. More than 1,200 people responded to these surveys.
- *Online access to the inquiry* – Industry participants could contact the inquiry team, download surveys and send comments to the inquiry through the inquiry's website, Facebook page, Twitter and YouTube.
- *Consultation* – The inquiry consulted directly with industry participants, including taxi and hire car licence holders and operators, NSPs and secondary networks.

The VTD also conducted industry consultations (based around its regular industry forums) and shared the results with the inquiry.

3.2.1. Licence issue and numbers

Restrictions on the issuing of taxi licences have been raised repeatedly in the inquiry's consultations. Many respondents to the inquiry argue that these restrictions have made licences too expensive, preventing more people from entering the industry. In turn, this is seen as leading to a consolidation of control within the industry and anti-competitive practices, as well as reducing the potential number of taxis available in Victoria and adversely affecting service quality.

Support for lifting current restrictions on issuing taxi licences ranges from calls for an unlimited release of new perpetual licences to the controlled release of new types of licences, such as 'weekend only' licences or licences confined to geographic zones. There are also calls for the Victorian Government to buy back all perpetual licences and replace them with annual licences leased directly from the government.

Those in favour of retaining licence restrictions argue that it maintains the viability of the taxi industry and is an effective regulatory tool for managing taxi numbers. These people believe that while increasing the number of licences may alleviate demand in peak periods, it will exacerbate the oversupply of taxis during other times.

Current licence holders are concerned about the impact on the value of their licences and the payment of fair compensation if restrictions are eased or eliminated altogether. Licence holders argue that investing in a taxi licence is no different to investing in shares or real estate and that any regulatory changes adversely affecting the market value of a private property right must be accompanied by appropriate compensation measures.

A number of people holding licences are long-term investors in the industry and their licences provide income or support during retirement. These licence holders are concerned that a reduction in the value of licences will cause them significant hardship.

Some submissions received by the inquiry suggest that the supply of licences cannot be addressed without first introducing measures to restructure the industry, such as regulating or prohibiting the assignment of licences and establishing drivers as employees. These people argue that such restructuring will lower the value of licences as purely financial instruments, establish the 'real' value of licences and change the dynamics of running a profitable taxi service. This will enable an undistorted picture to emerge of the availability of taxis in relation to the supply of licences.

There is a strong view in sections of the industry that the inquiry also needs to examine the Victorian Government's role in leasing around one quarter of the state's taxi licences and the impact this has on the quality of taxi services.

3.2.2. Assigning licences

The assigning of licences (where a licence holder effectively leases the right to operate a taxi-cab for an annual fee) has also been raised repeatedly with the inquiry.

Assignment is seen by some taxi operators as having a detrimental impact on service quality. A small group of operators see the 'demise of the professional cabbie' (and an associated decline in service quality) as stemming from the removal of the limitations on assigning licences to a third party in 1987. Generally, these operators want to see regulatory changes that require licence holders to operate the taxi(s) associated with their licence(s).

Assignment fees are also seen as adding to the pressure on operators and drivers, as well as contributing to higher fares. Large institutional licence holders argue that it is mainly smaller holders who do not take a responsible approach to assignments, with one company commenting:

Our perspective is that assignment fees should be set at realistic and reasonable levels that allow the operators and drivers to earn a fair income.¹⁵

There are also significant concerns about the practices associated with assignments, including licence holders exploiting vulnerable operators (such as those whose assignments are expiring but who have purchased a vehicle under finance) and instances of commissions and 'under the table' payments that add to assignment fees.

3.2.3. Regulatory environment

Many people commenting to the inquiry feel that current regulatory arrangements governing the industry are overly complex, impede competition and innovation, and do not provide sufficient incentive for service providers to improve service quality. While acknowledging that some core regulations are necessary for ensuring high standards of safety and service quality, these people feel there is a strong case for a reduction in regulation across most aspects of the industry.

Most large institutional taxi licence holders are strongly opposed to a more open licensing regime or large scale regulatory reform, viewing it as a risky and costly option that will not address concerns about service quality or availability. These licence holders generally do not believe broader reforms or restructuring of the industry are needed and point to their expectation that the capital value of their investment should not be adversely affected by changes in regulation or that this will not occur without compensation.

However, a number of smaller licence holders and taxi operators are supportive of substantial regulatory reform, particularly in areas such as licence assignment, payment systems, affiliation with network service providers (NSPs) and opening up opportunities for new and more flexible services.

3.2.4. Competition and networks

Some industry participants, mainly taxi operators, are highly critical of current regulations that compel them to affiliate with a NSP, seeing this requirement as restricting their business options and limiting their ability to bargain for better value in the services they receive from NSPs. Some of these operators also see reduced competition in network services as having had a detrimental effect on service quality.

Generally, these operators – and other observers of the industry – argue that the dominant NSPs now exert too much control over the industry through their cross-ownership of licences, fleets and electronic payment systems; their brokering of vehicle sales and taxi licensing; and their close relationship with Cabcharge.

Conversely, the VTA argues that:

A key reason that Victorian taxis are better equipped than those in other jurisdictions is because Victoria's NSPs are large enough to invest in real goods and services that benefit the customer.¹⁶

¹⁵ Gange Corporation, Submission to Taxi Industry Inquiry, SS124, p.1

¹⁶ VTA, Op. Cit., p.13

3.2.5. Transparency, accountability and standards

The inquiry found widespread concern about transparency, accountability and standards within the taxi industry. These concerns are raised in submissions, consultations and community forums, with the following main issues identified:

- There is no public transparency about the identity of accredited taxi and hire car industry participants, including taxi licence holders, operators, drivers and NSPs. There is no easy way for members of the public to find out who controls or operates vehicles, or to ascertain whether operators and drivers are accredited.
- Compared to public transport services, there is little public information available on the use of taxis. This means that many anecdotal assertions about taxi services remain unverified by evidence.
- There is little knowledge within the community about service standards and the taxi industry is not required to report publicly on meeting service standards, as is the case with public transport services such as trains and trams.
- There is a high level of dissatisfaction with the current mechanisms for making a complaint about taxi services, with many taxi users choosing not to make a complaint because they have little faith it will result in any action being taken.
- There is a strong view among some individuals and organisations that problems with taxi service quality are due, at least in part, to taxi licence holders having no formal responsibility for 'on-the-ground' service outcomes.

Many respondents to the inquiry, particularly the business community, feel that the industry lacks a strong customer service culture and that this is reflected in customer service not being given a high priority by operators and drivers. A number of taxi operators echo this sentiment, expressing frustration about what they perceive to be the failure of the industry to take the lead in developing a stronger focus on customer service, including involving operators in setting and adhering to service standards. However, this criticism is rejected by the VTA, which asserts in its submission:

There is no issue of greater concern to the industry and all its stakeholders than customer satisfaction. This fact is often lost in the debate about Victoria's taxi service.¹⁷

The VTA also argues that poor service quality is not as pervasive as anecdotal evidence suggest, and cautions against setting 'unrealistic and unachievable' expectations for the industry, especially around response times and taxi availability.

3.2.6. Role and operation of the regulator

There is considerable industry dissatisfaction with the VTD, including concerns about the effectiveness of the regulator's monitoring and enforcement activities, its responsiveness to industry concerns and its handling of complaints. Some industry participants perceive the VTD to be reluctant to investigate broader concerns about the structure and operation of the industry, and believe that it does not always act in the interests of all participants in the industry.

Industry participants feel that the VTD is unappreciative of and unresponsive to their concerns, that it does not take sufficient action against operators who do not comply with regulations and does not consult adequately with the industry. These participants suggest this non-collaborative relationship with the industry has left the industry suspicious of policy and operational changes and has led to policies being developed to better suit the regulator, rather than the industry or consumers.

There is a strong public perception that the VTD's complaints handling process is inadequate, difficult to access and that little or no follow-up will result from lodging a complaint. The inquiry received feedback from some disability advocacy groups and taxi users with a disability that there is insufficient promotion from the VTD about where and how passengers can direct their complaints.

A number of taxi users believe that drivers are not motivated to improve their conduct as the VTD does not take sufficiently strong action against drivers. Some agencies have suggested that the complex structure of the industry appears to contribute to the difficulties experienced by the VTD in enforcing compliance with regulations.

Groups such as the Victorian Equal Opportunity and Human Rights Commission, National Disability Services – Victoria and Scope have noted the positive steps taken by the VTD to facilitate input from passengers with a disability into the performance of taxi services.

Generally, there is strong support for a new regulatory body that is independent of the industry and government, that is accountable, transparent and effective, that can provide client feedback and that is subject to high-level review of its decisions regarding complaints and its monitoring of trends.

¹⁷ VTA, Op. Cit., p.2

3.3. Hire cars

Very few service concerns were raised with the inquiry by hire car users. This is possibly because customer satisfaction is particularly important to hire car companies as they rely largely on repeat business, word-of-mouth referral and corporate customers. In addition, as hire cars largely service the 'luxury' or special occasion markets, customers have few concerns about service availability: having decided to pay the premium price, customers are generally satisfied as long as the service meets high standards of reliability, safety and quality.

A number of corporate users of taxis and hire car services feel there is scope for hire cars to compete with taxis and play a greater role in delivering 'premium style' taxi services. These views are shared by some hire car operators, who believe such competition will generate benefits for customers through lower costs and better quality and more flexible services. These consumers and operators point out that advances in technology and the development of tailored services in both the hire car and taxi markets render regulations constraining competition increasingly obsolete.

The inquiry has heard from many hire car operators arguing for a total overhaul of current licensing types and conditions. In particular, there is dissatisfaction with current regulations that prevent regionally based hire car operators from completing jobs that are wholly within the Melbourne metropolitan hire car zone while metropolitan operators can operate anywhere in Victoria.

Other issues raised by operators include driver accreditation training, payment options for annual fees, the luxury car qualification (and the difficulty of operators in buying an Australian-made hire car), competition with taxis for pre-booked services, the restrictions on using personalised registration plates and the general lack of opportunities to compete more directly with taxis.

Strong views are held by some hire car operators that too many Special Purpose Vehicle licences have been issued and that poor monitoring of these licenses means that a significant number are being used outside their licence conditions. Hire car operators are also dissatisfied with the performance of the VTD in policing illegal operations (such as touting at Melbourne Airport) and in consulting with the industry.

3.4. Looking to the future

Many people have commented to the inquiry about how taxi and hire car services might look in the future. Generally, these people note that changing consumer preferences and expectations – along with advances in technology – will influence the future structure of the industry and the services it provides. The main themes raised with the inquiry in this respect are:

- Increasingly, customers expect services that are tailored to their specific needs – and there is no reason to suppose that their expectations in relation to taxi services will be any different. As the use of sophisticated personal devices and applications continues to grow, customers will also expect to have ready access to real-time information about services and more convenient booking and payment systems.
- The industry will need to be more innovative in many areas of service delivery to keep pace with the social and demographic changes likely to occur in Victoria over the next decade. These changes include an ageing population (and the need to engage with an "increasingly active, informed and sophisticated generation of people over 55"¹⁸), strong growth in Victoria's large regional cities and Melbourne's growing outer suburbs, and the shift to a carbon constrained economy.
- Integrating taxi services more closely and effectively with the public transport system and the community transport sector is also nominated by local councils and community groups as being critical to meeting the future travel needs of Victorians.
- There will be opportunities for the industry to grow taxi occupancy rates and establish new avenues of business. However, the current regulatory regime places many barriers in the way of the industry entering new markets and taking up new opportunities.

Inquiry finding

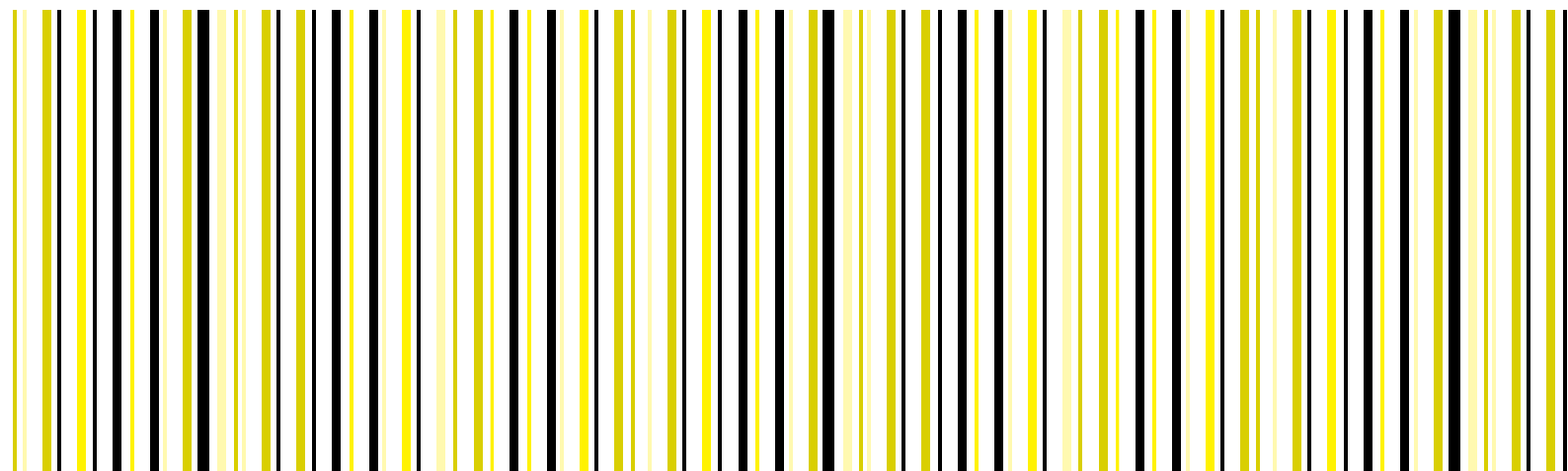
- There are high levels of customer dissatisfaction with the quality and performance of taxi services. Through various channels, taxi users are sending a clear message to the industry that it needs to be more focused on customer service, on fixing well known and longstanding problems and on dealing more diligently and effectively with complaints.

18 City of Melbourne, Op. Cit., p.7



Part B

Victoria's taxi and hire car industry



Chapter 4.

4. The industry today

Taxi and hire car services in Victoria are delivered through an intricate web of legal, commercial and economic arrangements involving taxi and hire car licence holders, taxi operators, drivers, taxi networks, payment system providers and many others.

These services operate within a complex regulatory framework that has both shaped the industry and evolved in response to the development and expansion of the industry over time.

Key features of the industry – including its structure, the various participants and their roles, and the industry's performance in critical areas – are summarised in this part of the report. Part D provides a deeper analysis of the performance of the industry and its component markets, illustrating the causal factors behind the industry's performance and service outcomes.

4.1. Taxi and hire car services

Taxi and hire car services are a small but important part of transport services in Victoria, representing approximately seven per cent of total public transport patronage in metropolitan Melbourne and about 32-35 million trips in Victoria annually. They provide flexible, 'point-to-point' transport that gives people a level of mobility not offered by other services such as trains, trams and buses. They are critical to the business, social and recreational lives of Victorians and make an important contribution to Victoria's liveability.

Taxis and hire cars play a critical role in Victoria's tourist industry, giving visitors their first and last impressions of our state and having a major impact on the long term 'brand' of Melbourne and Victoria. The industry also makes a substantial economic contribution to Victoria, generating annual revenue of between \$700 and \$800 million.

Crucially, taxis – and to a lesser extent – hire cars provide a vital form of transport to groups of Victorians with special travel needs, such as the elderly and those with mobility issues. They can also play a vital role when other forms of public transport are not available (such as late at night or in small rural communities) or when a demand responsive, point-to-point service provides the quickest, most convenient or most cost-effective travel experience.

Taxis are restricted to carrying a maximum of 11 passengers, but most have the capacity to carry four passengers at a time, limiting their potential to provide mass transit. Nonetheless, during major events and at Melbourne Airport, taxis transport large numbers of people, indicating that they have a role in mass transit in addition to their primary role as a 'sweeper' service.

The community's need for taxi and hire car services is met by a complex industry that has many players and that is subject to a high degree of government regulation in some areas.¹ The fundamental elements of regulation in Victoria have remained largely unchanged for many decades. Core elements, such as licensing individuals to provide rank and hail taxi services (originally known as 'hackney carriages'), extend back to the 1850s. Other key features of the current industry structure were established in the 1920s and 1930s, including government-imposed restrictions on the number of licences, regulating fares and the use of bailment (or lease) arrangements with drivers.²

See Table 4.4 for an overview of Victoria's taxi and hire car industry – then and now.

4.2. The industry today – taxis

4.2.1. Licences

There are 5,258 taxi licences across Victoria, including 699 wheelchair accessible taxis (WAT): 4,335 of these licences (around 82 per cent) operate in metropolitan Melbourne and the remainder in outer suburban areas and regional Victoria. Each taxi licence allows for the operation of one taxi within a specified zone. Taxi licences are effectively a government-granted permission to operate a taxi vehicle and are issued subject to various conditions.

Broadly, there are three types of taxi licence in Victoria, with the type of licence determining the services the taxi is able to provide:

- Conventional licence – the most common type of licence. Taxis with these licences are able to operate 24 hours a day, 7 days a week.
- Peak service licence – taxis attached to these type of licences are known as 'green top' taxis due to their livery. These taxis are only allowed to operate in the metropolitan area between 3pm and 7am, and 24 hours during major events.
- WAT licence – taxis with WAT licences are designed to transport people in wheelchairs. WATs may also be high occupancy vehicles that can carry up to 11 passengers when not carrying people in wheelchairs.

¹ Chapter 7 describes the regulatory regime applying to the industry
² Chapter 6 provides more detail on the history of regulation and reform of the Victorian taxi and hire car industry

The three broad types of licence described are mostly perpetual (ongoing) licences. However, since 2002, no new perpetual licences have been issued in Victoria.

Some licences are transferable (meaning they can be bought and sold) and assignable (meaning the right to operate a vehicle under the licence can be assigned or 'leased' to another person). Other licences are transferable, but not assignable; peak service licences are not transferable or assignable (see Table 4.1).

Further conditions on licences divide the taxi market into zones (see Table 4.2). Each taxi is zoned to a particular area, with the intention being that the taxi should be used primarily to service the community within that zone. Taxis cannot pursue rank and hail work outside their zone, but can respond to pre-bookings outside the area.

The zones are:

- Metropolitan – metropolitan Melbourne
- Outer suburban – Frankston and Dandenong
- Urban – the cities of Geelong, Ballarat and Bendigo
- Country – all other areas (generally, country taxis are licensed to operate within three to 12 kilometres of the local post office).

Taxi licences are not available on demand: rather, the government restricts the number of taxi licences. The effect of this restriction is that conventional (perpetual) licences have obtained a scarcity value in the market and are able to be assigned (that is, leased), providing the opportunity for licence holders to obtain substantial rents from assigning their licences.³

Table 4.1 Victorian taxi licence conditions

	Conventional taxi		Wheelchair accessible taxi		Peak service taxi
	Perpetual	Fixed term (10 years)	Perpetual	Fixed term (10 years)	
Zone	All zones		All zones		Metropolitan zone only
Hours of operation	24 hours a day 7 days a week		24 hours a day 7 days a week		From 3pm to 7am each day 24 hours a day during designated major events
Transferable	Yes	Yes	Yes	Yes	No
Assignable	Yes	No	Yes	No	No

Table 4.2 Number of taxi vehicles by type and zone, as at March 2012

	Conventional	No vehicle*	WAT	TOTAL
Metropolitan	3808	11	516	4335
Country	406	4	115	525
Outer suburban	127	1	33	161
Urban	202	0	35	237
TOTAL	4543	16	699	5258

* Licence issued but not attached to a vehicle

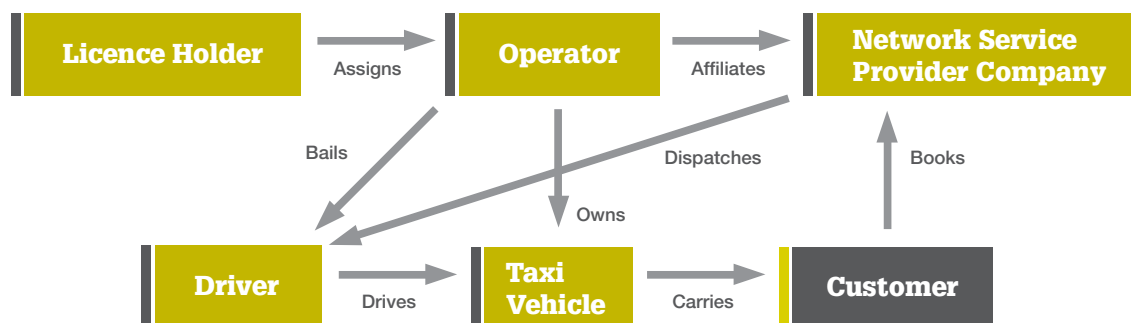
Source: VTD

³ These issues are discussed in detail in chapter 10

4.2.2. Industry participants

Behind every taxi journey lies a series of complex and interlocking arrangements that involve various legal and commercial relationships. The main roles of the key participants in delivering taxi services are shown in Figure 4.1.

Figure 4.1 Key participants in the taxi industry



■ Current regulatory input

Industry participants often play more than one role in service delivery. For example, some operators drive their own taxis and some network service providers (NSPs) also operate or have interests in fleets of taxis.⁴

Taxi licence holders

Victoria's 3,500 taxi licence holders have acquired their licences either by purchasing them from another licence holder or by purchasing a licence from the Victorian Government. The majority of taxi licence holders are not required to operate the licensed taxi themselves: they can 'assign' the right to operate a vehicle under the licence to a taxi operator.⁵ Around 70 per cent of assignable metropolitan taxi licences are now operated by a person or company other than the licence holder. For regional licences, this proportion falls to around 26 per cent. The assignment process allows licence holders to make a return on their investment in the licence through assignment fees (currently around \$30,000 per year).

While the price of conventional taxi licences is ultimately determined by what buyers are willing to pay, the current average market price for a Melbourne metropolitan licence is approximately \$467,000 (as at April 2012). The value of these licences has more than doubled in nominal terms since the early 2000s, reaching a high monthly average of around \$521,000 in December 2010. Recent sales have been mostly in the \$450,000 to \$490,000 range.

Taxi operators

An individual, incorporated body or association, or a partnership that operates one or more taxis, is known as an operator. Some operators own the taxi licence, while others have been assigned the right to operate a vehicle under a licence by a licence holder. Taxis may be driven by the operator themselves or 'bailed' (rented) to drivers.

While there are a number of large and medium sized fleet operators, the vast majority of Victorian taxis are operated by people who manage only one or two taxis. In some cases, operators own a single vehicle and drive it themselves, bailing to another driver when they are not driving the vehicle. Operators purchase the taxi vehicle and are responsible for the maintenance of their vehicles and for meeting the administration requirements for their taxis, including driver payments and bailment agreements, NSP affiliation fees, assignment fees (unless they are an owner-operator) and vehicle insurance.

There are approximately 3,000 taxi operators in Victoria.

⁴ Chapters 10 and 11 provide further analysis of vertical integration and competition in the taxi services market

⁵ While some licence types (such as peak service and 10 year fixed term licences) cannot be assigned, these licence types represent a relatively small proportion of overall licences

Network Service Providers

Under current regulations, each taxi must be affiliated by its operator to a taxi booking company or depot, known as a NSP, for receipt and dispatch of bookings and to connect to an emergency alarm system.

NSPs' key public role is the taking of bookings and the dispatch of bookings to drivers. In recent times, NSPs (particularly in Melbourne) have started offering an increasing range of ancillary services and infrastructure to their affiliated taxi operators, such as car fit outs, financing, repairs, taxi licence brokerage and driver training.

A series of mergers and acquisitions has resulted in the majority of control of the NSP industry in Melbourne vesting with two major networks: Black Cabs (13CABS) and Silver Top Taxis. Platinum Taxis, a third smaller NSP, also operates in Melbourne. Two large outer suburban NSPs, Dandenong and Frankston, are not part of the metropolitan zone. Most regional and country townships have their own local NSPs.

Current legislation also recognises 'secondary networks'. These are less formal taxi networks whose members pass bookings amongst themselves, typically by mobile phone or pager. Members of secondary networks must also have an affiliation with a primary NSP.⁶

Drivers

Drivers provide the face-to-face transport service to customers. There are approximately 15,000 active taxi drivers in Victoria, of which more than 12,000 work in the Melbourne metropolitan area. Drivers of all commercial passenger vehicles, such as taxis, hire cars, special purpose vehicles and buses, are regulated via a common commercial passenger vehicle driver accreditation scheme.

Most taxi drivers 'bail' a taxi from an operator, generally negotiating a revenue split of the total fares taken during their shift (historically, this has been 50:50) or a fixed fee for the shift. Typically, bailee drivers are responsible for their own holiday and sick pay, superannuation and for paying GST and income tax to the Australian Taxation Office. Some operators and licence holders also drive their own taxis, but these are a minority of taxi drivers.

The number of short-term and part-time taxi drivers has grown over recent years, with many overseas students now driving taxis in Melbourne. Turnover of drivers is high, requiring 1,500 to 2,000 new drivers to be trained and accredited in Victoria each year.

Others

Other key industry participants include:

- **Cabcharge** – a public company that is the major provider of taxi EFTPOS payment systems and also has significant other interests in the taxi industry Australia-wide, including ownership interests in NSPs and licences⁷
- **Manufacturers and suppliers** of in-taxi equipment that is required by regulation, such as meters, booking and dispatch systems, cameras and GPS equipment
- **Registered training organisations (RTOs)** – which provide training for taxi drivers and operators. Four RTOs in Victoria are authorised to conduct taxi driver training. These RTOs are regulated by the Victorian Registrations and Qualifications Authority or the Australian Skills Quality Authority. Some of the RTOs that deliver driver training packages have links to the taxi industry
- **Taxi licence brokers** – who manage the transfer and assignment of taxi licences. Many brokers are also employees of NSPs or large taxi operators.

⁶ See chapter 11 for a detailed examination of networks and the booked taxi market

⁷ See chapter 12 for a detailed examination of the payment instruments and processing market

Who uses taxis?

Each year, Victorians make around 32-35 million taxi trips. Research conducted for the Taxi Industry Inquiry found that approximately two in three Victorians (66 per cent) have used a taxi at least once in the past 12 months, equating to around 3.7 million taxi users across Victoria.⁸

The choice to use a taxi is influenced by the travel requirements and circumstances of individual passengers, who generally fall into one of the following groups:

- **Travellers** – people who require transportation to or from the airport (around 19 per cent of taxi users)
- **Social / entertainment / late night users** – people who use taxis and hire cars instead of taking their car to and from functions or events (65 per cent)
- **Business travellers** – people who use taxis and hire cars for business purposes (16 per cent)
- **Light or occasional users** – people who use taxis less frequently and mainly in special circumstances, such as travelling to or from the airport when going on holiday (57 per cent)
- **Rural and regional users** – in some parts of country Victoria where other forms of public transport are limited, people may use taxis more regularly, fitting into one or more of the above groups
- **Users with reduced mobility** – people who use taxis because they cannot drive or easily access other forms of public transport, including the elderly, people who use wheelchairs and those with a disability that affects their mobility (8 per cent). Taxis are particularly important to this group of users who have severely limited transport options. Without access to the point-to-point service provided by taxis, many of these Victorians would be unable to access employment, health and other services, or social and recreational activities.

Research undertaken for the inquiry found that about six in 10 Victorian taxi users are light users, having only used or tried to use a taxi once every two to three months or less often. One in four are moderate users, using a taxi at least once a month to two to three times a month. Just 16 per cent are heavy users, using taxis once a week or more often.

Men use taxis more frequently than women; younger people tend to use taxis more frequently than older age groups; and taxi use is more frequent amongst users living closer to Melbourne's CBD.

4.3. The industry today – hire cars

Hire car licences are issued for pre-booked point-to-point commercial passenger vehicle work undertaken in luxury vehicles. There are currently 2,681 hire car licences operating across Victoria, with the majority based in Melbourne (see Table 4.3).

There are a number of important differences between taxis and hire cars:

- Hire cars are most commonly modern luxury sedans or stretched limousines, although special purpose and vintage vehicles used for specific purposes such as weddings or tours also fall within this category.
- Hire car vehicles (with the exception of hybrid vehicles) must have a recommended retail price greater than the luxury car tax threshold.
- Hire cars cannot be hailed in the street or work from a taxi rank. They can only operate after a customer pre-books the service with the hire car operator.
- Hire cars are not permitted to have meters. Hiring rates are not regulated and charges are negotiated between the driver and customer in advance of the vehicle being hired.
- Hire car vehicles must be managed and operated by, or under the direct control of, the licence holder (that is, an owner-operator or owner-driver model). This differs from the assignment system in operation for the majority of taxi licences.
- Hire cars are not required to maintain 24 hour communication networks, make security screens or CCTV systems available or install driver duress alarms.
- The hire car sector does not provide wheelchair accessible services.

Hire car licences are issued for operation in either metropolitan Melbourne or in regional Victoria. Zoning arrangements permit a metropolitan licence holder to operate statewide, while country hire cars can drop off or pick up within the metropolitan area but not complete a journey within that area.

Hire car licences are available on demand for a set price and are issued by the Victorian Taxi Directorate (VTD). The licence fee for a metropolitan hire car is \$60,500 (or \$40,000 for exclusive operation of a hybrid vehicle), while a country hire car licence fee is \$20,500. These licences trade at slightly reduced levels on the secondary market.

⁸ Latitude Insights (2012), *Taxi Services Commission: Consumer Detriment Research - Final Report, Prepared for the Taxi Industry Inquiry*, Melbourne, p.8. All other information in this box is derived from the Latitude Insights paper

Special Purpose Vehicle licences are issued for the pre-booked carriage of passengers for weddings and tours at a fee of \$2,000. Restricted Hire Vehicle licences, which are issued for the pre-booked carriage of passengers in vehicles aged over 25 years, motorcycle/tricycle tours, 4WD off-road tours and vehicles with between eight and nine seats, are issued free.

Table 4.3 Victorian hire car licence numbers, as at March 2012

Metropolitan Hire Car (MH) licences	925
Country Hire Car (CH) licences	70
Special Purpose Vehicles (SV) licences	984
Restricted Hire Vehicles (RH) licences	702
Total	2,681

Source: VTD

Hire car licences (with the exception of RH licences) can be transferred by application to the VTD, but are not assignable.⁹ Hire car drivers generally have an owner interest: bailment arrangements are not common in the hire car sector. Hire cars also operate under a more 'minimalist' regulatory model than taxis.¹⁰

Who uses hire cars?

Research conducted for the Taxi Industry Inquiry found that the main reasons people use a hire car are:

- Travel to and from the airport (39 per cent of users)
- Special occasions such as weddings, birthdays and debutant balls (22 per cent)
- Social/entertainment outings (9 per cent)
- Visiting friends and family (7 per cent)
- Running errands and getting to and from appointments (7 per cent).

People chose a hire car over a taxi or other forms of transport for convenience (18 per cent) and reliability (13 per cent) or because they were celebrating a special occasion (14 per cent).

Hire cars with specific licences are also used for non-emergency patient transport and 4WD and other tours.¹¹

⁹ Refer to sections 149(1) and 144(1c) of the *Transport (Compliance and Miscellaneous) Act 1983*

¹⁰ Specific issues relating to hire cars are canvassed in detail in chapter 14

¹¹ Information in this box is derived from Ipsos Social Research Institute (2012), Op.Cit.

Table 4.4 Victoria's taxi and hire car industry – then and now

	1985	1998	2011 (as at December 2011)
Number of taxi licences available	2,987 conventional taxis 14 WATs	3,110 metro taxi licences, including 70 WATs 137 outer suburban taxi licences, including 14 WATs 239 urban taxi licences, including 14 WATs 413 country taxi licences, including 37 WATs	4,336 metro taxi licences, including 512 WATs 161 outer suburban taxi licences, including 32 WATs 237 urban taxi licences, including 35 WATs 523 country taxi licences, including 114 WATs
Taxi licence values	Average metropolitan taxi licence values around \$61,700	Metropolitan taxi licence values over \$260,000	Average metropolitan licence values around \$478,000
Assignments	Approximately 4 per cent of taxi fleet with approved taxi licence assignments	Approximately 45 per cent of metropolitan taxi licences were assigned	Approximately 70 per cent of assignable metropolitan taxi licences are assigned
Taxi drivers	Approximately 6,000 regular drivers	Approximately 9,000 active drivers	Approximately 15,000 active drivers
Number of hire car licences	78 hire car licences 132 special purpose vehicle licences	442 metro hire car licences 55 country/urban hire car licences 579 restricted hire vehicle licences 895 special purpose vehicle licences	925 metro hire car licences 70 country hire car licences 702 restricted hire vehicle licences 984 special purpose vehicle licences
Hire car licence values	N/A	Metropolitan hire car licence values between \$70,000 to \$80,000	Licence fees set by the Victorian Government: \$60,500 (metro), \$40,000 (metro hybrid), and \$20,500 (country) Average secondary market value of metropolitan hire car licences around \$55,000.
Assignment values	N/A	Metropolitan average value of \$1,800 – \$2,000 per month	Metropolitan average value of \$2,520 per month
Passenger trips (million)*	25.1	22.4	26.3
Vehicle kilometres (million)*	233.7	390.0	N/A
Average trip length (km)*	7.6	10.0	9.7
Passenger kilometres (million)*	143.0	280.0	255.4
Fare revenue (\$2011 m)*	\$237.84	\$414.63	\$621.10
Average fare (\$2011)	\$9.47	\$18.51	\$23.57

* Note: Statistics only for metropolitan and outer suburban (Frankston and Dandenong) zones, except for 2011 where only metropolitan zone data is available

Sources for table: Foletta (1986), KPMG (1999), VTD, Melbourne metropolitan taxi networks (data supplied to the Taxi Industry Inquiry)

4.4. The industry regulator

Victoria's taxi and hire car industry is governed by a complex regulatory regime that extends across several legislative instruments, including both Victorian and Commonwealth legislation. The regime is administered and applied through the VTD, which was established in 1994 as an administrative unit within the Department of Transport (DOT). The VTD is headed by a General Manager and exercises its powers under delegation from the Secretary DOT. Derived from the high level functions and powers set out under the *Transport Integration Act 2010* and detailed provisions for taxi and hire car regulation contained in the *Transport (Compliance and Miscellaneous) Act 1983*, the VTD's key functions are:

- Taxi and hire car licensing
- Taxi and hire car driver accreditations
- Taxi industry accreditations to licence holders, operators and NSPs
- Compliance and enforcement activities
- Approving equipment for use in taxis.

The VTD is also responsible for:

- Administering the Multi Purpose Taxi Program (MPTP) (subsidising taxi travel costs for people with a disability) and a country WAT subsidy
- Regulating driving instructor authorities
- Developing operational policy and reviewing regulations
- Liaising and consulting with participants in the taxi and hire car industry and with consumers.

A summary of the current regulatory regime is provided in chapter 7; an analysis of the VTD's role and performance in applying the regulations is set out in chapter 8; and a detailed analysis of the impact of the regulatory regime on various aspects of industry performance is contained in Part D.

Are taxis regarded as public transport?

Taxis are regarded as public transport by some, but not by others. This lack of consensus is not helped by differing opinions on what constitutes public transport.

In 1999, KMPG Consulting briefly commented on the role of small commercial passenger vehicles within the public transport system in its report on the National Competition Policy Review of Taxicab Legislation to the then Victorian Department of Infrastructure. KMPG noted that "...support in submissions for the notion that taxi-cabs...are part of the larger public transport system in Victoria" was in part due to "regulations that require taxi-cabs to be 'common carriers' – that is, they must be able to be hired on demand."¹² The report fell short of saying that taxis are public transport.

The Federal Government appears to take the view that taxis are public transport. For example, taxis are referred to as a 'conveyance' that provides a 'public transport service' in the *Disability Standards for Accessible Public Transport 2002* (Cth). In its 2002 report on the implementation of National Competition Policy, the National Competition Council commented that "taxis and hire cars constitute part of the public transport system".¹³

The Victorian Government's position is less clear. In its submission to the inquiry, the Department of Transport observed that a key constraint to improving taxi services is the historic regulatory and industry structures that reinforce taxi and hire car services as 'private', rather than 'public', forms of transport.¹⁴

However, in the Victorian Auditor-General's recent review of the performance of public transport, there is no mention of the government's role in regulating and setting policy for taxi services. The Auditor-General notes that public transport has the dual roles of providing efficient, mass transit and delivering social transit, and then lists metropolitan and regional trains, trams and light rail, SmartBus, local bus and regional coach as the various modes of travel that contribute to those roles. Taxis are notably absent from this list.¹⁵

Also notable is the fact that Public Transport Victoria, the recently established statutory body tasked with planning, coordinating and managing the Victorian public transport system does not have a role in regulating taxi services. A separate statutory body, the Taxi Services Commission, has been established for that purpose.

Views in submissions

There is strong community support for the view that taxis are an essential component of Victoria's public transport network. For example, the City of Melbourne opens its submission to the inquiry by stating:

*Taxis are a form of public transport, offering 24-hour service, door-to-door delivery, services for special needs, responsiveness to demand and flexibility in destination.*¹⁶

Many local councils, particularly those servicing regional areas, told the inquiry that they considered taxis to be part of the public transport network. For example, the East Gippsland Shire Council observed that:

*Taxis play a crucial and active role in providing 'public transport' to our community...[they] need to be recognised as part of an integrated public transport system and play a key role in connectivity within and between our townships.*¹⁷

Similarly, Ms Christine Fyffe, the Member for Evelyn, sees taxis as:

*... a crucial part of the public transport network for residents of the Yarra Valley, as it is quite often the only form of public transport accessible.*¹⁸

VCOSS is of the view that:

*...the taxi system is part of a broader public, community and active transport system.*¹⁹

The inquiry was urged by local councils, community groups, transport experts and others to resolve the ambiguous status of taxis and move to formal recognition of taxis as public transport, in the belief that this is essential to improved transport planning and the better integration of taxi services into the broader transport network.

12 KPMG Consulting (1999), *National Competition Policy Review of Taxi-cabs and Small Commercial Passenger Vehicle Legislation*, department of Infrastructure, Melbourne, p.26

13 National Competition Council (2002), *Assessment of government's progress in implementing the National Competition Policy and related reforms, Volume one: Assessment*, AusInfo, Canberra

14 Department of Transport, Submission to the Taxi Industry Inquiry, SS168, p.4

15 Victorian Auditor-General's Office (February 2012), *Public Transport Performance*, PP No. 104, Session 2010-12, p.26

16 City of Melbourne, Op. Cit., p.1

17 East Gippsland Shire Council, Submission to the Taxi Industry Inquiry, SS84, p.3

18 Christine Fyffe (Member for Evelyn), Submission to the Taxi Industry Inquiry, SS64, p.1

19 VCOSS, Op. Cit., p.5

Even those individuals and groups who do not see benefits in formal recognition believe that an improved understanding of the role of taxis within the broader transport network is needed. For example, without prescribing a particular outcome, the Victorian Taxi Association observes:

An important part of the inquiry should be to create a consensus between the community, government and the industry about the role of taxis within the broader Victorian public transport system.²⁰

The inquiry also identified strong community support for integrating taxis more closely with the broader public transport network and using taxis to replace or complement fixed route services in places with few public transport options.

There is little doubt that taxis fill gaps when public transport fails. As one individual told the inquiry:

A large group of people, who for various reasons do not have access to a car, utilise taxis for travel needs or use them as a supplement to public transport... Taxis are also a fall back option for people who rely on public transport when a connection is missed, services are disrupted, routes are inconvenient or when poor weather makes it less attractive. Taxis are particularly important in outer areas when local bus services are infrequent, unreliable or have limited hours.²¹

What roles do taxis play in the transport system?

The inquiry's view is that taxis are a mode of private commercial transport that plays two key roles in the transport system: taxis are both a complement to and an alternative to public transport.

A complement to public transport

Taxis act as a complement to public transport at times when:

- Public transport is operating at infrequent intervals or not operating at all – for example, late evening, outside of peak hours or after midnight
- Public transport cannot meet demand – for example, during major events
- Passengers need to be connected from one transport mode to the another – for example, when a tourist arriving at an airport needs to be driven to the nearest train station to get to their final destination

- A door-to-door service is required for convenience or to reduce travel time – for example, when a business executive needs to travel to a meeting.

Seamless integration and coordination with other modes of transport, both private (such as airlines and cruise ships) and public (such as trains and trams) and a more competitive market are needed to ensure taxis and hire cars can fill the 'gaps' in transport services.

An alternative to public transport

Taxis are an alternative to public transport in situations where:

- Passengers cannot access public transport – for example, people with reduced mobility or special needs such as frail older people, vision impaired people or those who are temporarily unwell
- Public transport is not available – for example, in remote areas.

When age, disability or geographic isolation limit a person's transport options, taxis provide a very important social service by providing flexible, door-to-door transport. Taxis are not one of several available travel options: in many instances, they are the only travel option. Intervention by government may be warranted where there is a complete failure by public and private transport to service the transport needs of members of the community. For example, in the case of people with a disability, the Victorian Government has intervened in the form of financial subsidies and incentives such as the Multi Purpose Taxi Program, higher tariffs, grants and WAT training subsidies to ensure that the market supplies what would otherwise be uneconomical services.

Inquiry finding

- ➔ The inquiry considers that taxis are not public transport. Taxis are a mode of private commercial transport that plays two key roles in the transport system: they are a complement to public transport and also an alternative to public transport.

²⁰ Victorian Taxi Association, Op. Cit., p.6

²¹ Andrew Herington, Submission to the Taxi Industry Inquiry, SS43, p.1

Chapter 5.

5. How the industry performs

Key messages

- The inquiry was prompted primarily by public concerns about poor levels of service, especially relating to taxis. The high level evidence presented in this section bears out these concerns and highlights some of the key factors that contribute to poor service.
- Consumers have become less satisfied with the standard of taxi services in Melbourne, particularly the quality of drivers and the performance of booking companies.
- Consumers are bearing considerable costs from poor service in Melbourne and this will likely have a continuing effect on the demand for taxi services in future.
- Licensing restrictions have reduced availability of services across Victoria, especially at peak hours and Friday and Saturday evenings in larger centres, and generally in smaller centres. This has benefited licence owners at the expense of taxi users and drivers.
- Network service providers have the ability to mitigate poor service, but have little incentive to do so as they face limited competition and an increasingly intrusive and burdensome regulatory system.
- Taxi operators are experiencing low vehicle occupancy rates. They are also facing increasing cost pressures, including higher remuneration demands from drivers, which are reflected in declining shift occupancy rates.
- Drivers are the most important element in a positive customer experience with taxis and hire cars, but taxi drivers in particular face very poor working conditions and an average rate of pay that places them below minimum wage earnings. High taxi licence prices also mean they have few prospects of obtaining a licence and operating their own taxi.

- Taxi licence values have been rising steadily since the mid 1980s and were around \$490,000 in 2011. Assignment returns have also been growing. Total returns from taxi licence ownership have been exceptional, with estimated returns in the order of 10 to 16 per cent per annum depending on the length of licence ownership.
- Overall, taxi fares have risen by nearly 180 per cent since 1986, faster than CPI. While this could be expected given increases in input costs, there are indications that the industry has been successful in using fare rises to compensate for both rising costs and rising assignment values.

Market performance and service outcomes are strongly influenced by market structure.

The market structure – such as the number and type of firms – is determined by underlying economic factors, but also by industry regulation.

The Taxi Industry Inquiry has closely examined the impact of these market and regulatory factors on the industry's performance to determine how performance can be improved to better meet the needs, demands and expectations of consumers.

Market performance may be assessed in a number of ways. The competitiveness and efficiency of service delivery is critical, as efficient and competitive markets are likely to deliver outcomes that are in the best interests of consumers. More specifically, markets that operate well usually meet the following criteria:

- The firms within the market should operate efficiently
- Output levels and product quality should be responsive to consumer demands
- Profits should be at levels just sufficient to reward investment, efficiency and innovation
- Firms should be innovative and develop and exploit new services
- Success should accrue to sellers who best serve consumer wants.¹

The Victorian Government has specified in its direction to the Taxi Industry Inquiry that other principles should also be considered in the assessment of industry performance. These principles include passenger and driver safety, integration with other forms of public transport and sustainability.²

¹ This list is paraphrased from Scherer, F M. and Ross, D. (1990), *Industrial Market Structure and Economic Performance* (3rd ed)

² The inquiry's terms of reference are set out in chapter 1

An overview of the industry's current performance is provided in this chapter, which presents available performance data across six critical areas:

- Consumers' satisfaction with taxi and hire car services, including an estimate of consumer detriment resulting from problems with taxi services and booking networks
- The supply of and demand for taxi and hire car services, including information on availability, trips, and waiting times
- The level of taxi fares
- The profits in the industry, including profits of licence holders and operator utilisation data
- Booking network performance
- The remuneration of drivers.

The inquiry presents some high level commentary about these data in this chapter. However, a detailed analysis of the factors driving industry performance results is set out in Part D.

5.1. Customer satisfaction and complaints

A very direct measure of performance can be found by looking at measurements of consumer satisfaction with services, and the level and change in the number of complaints about poor service.

The available research and data related to satisfaction and complaints provides compelling evidence that poor service is costing consumers a great deal and will ultimately cost the industry as consumers look to alternatives to the use of taxis.

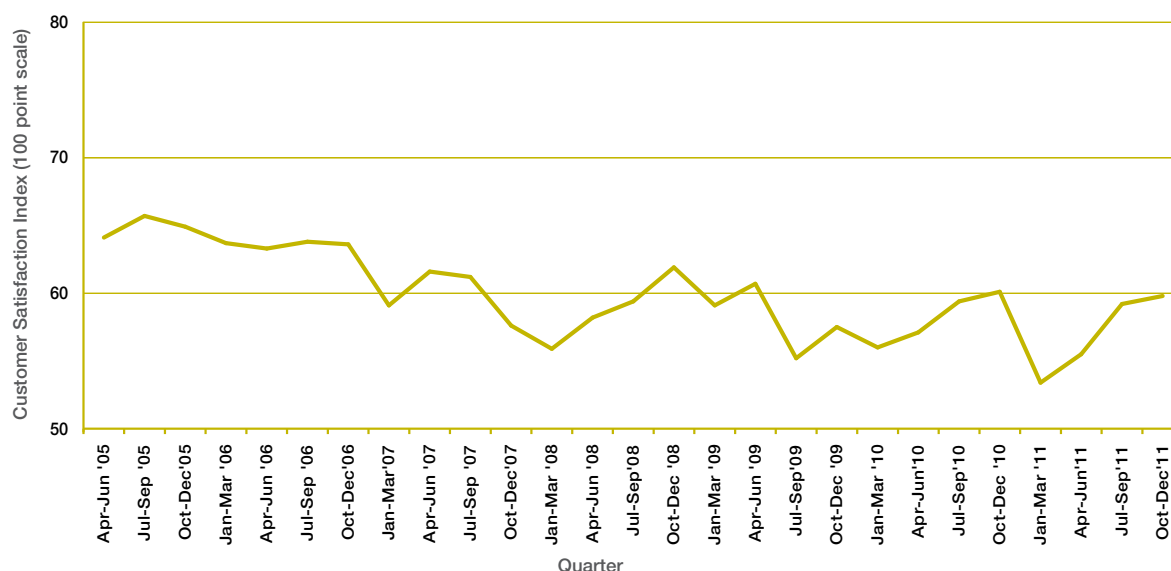
The Victorian Department of Transport (DOT) Customer Satisfaction Monitor (CSM) has been conducted quarterly since 2005. Using computer-assisted telephone interviewing, the CSM tracks customers' transport experiences to gain a better understanding of what drives and influences customer satisfaction.

As Figure 5.1 shows, customer satisfaction has been declining steadily since the survey commenced, although there was some improvement in 2011. Overall satisfaction with taxis is the lowest of all other modes of transport in Victoria (train, bus, tram and V/Line trains).

The CSM shows that levels of satisfaction are lowest for the two biggest companies (Black Cabs and Silver Top Taxis), with Frankston Taxis recording the highest levels of customer satisfaction.

Aspects of taxi services where customers are most satisfied under the CSM are personal security, fares and payment systems, and taxi booking services. Customers are least satisfied with taxi drivers, the price of taxi fares, the process of finding a taxi in the street and the information provided in taxis. The key drivers of overall satisfaction are taxi drivers, travel experience and price of taxi fares.³

Figure 5.1 Overall customer satisfaction with taxi services



Source: Wallis Consulting Group P/L (2011) Customer Satisfaction Monitor

³ Wallis Consulting Group P/L (2011), Metropolitan Taxis Report Customer Satisfaction Monitor Survey, October - December 2011

5.1.1. Complaints data

Passenger complaints registered with the Victorian Taxi Directorate (VTD) also provide a guide to levels of customer satisfaction with taxi services. As shown in Figure 5.2, there has been a steady increase in the number of formal passenger complaints lodged with the VTD over the last six years, although the number declined slightly in 2011. Complaints trebled between 2004 and 2010, supporting other evidence indicating that customer satisfaction with taxi services has declined in recent years.

Concerns with drivers accounted for about 85 per cent of all complaints to the VTD in 2011, with the majority of these complaints relating to driver conduct (92 per cent of all driver complaints). The top five complaints relating to driver conduct are unprofessional behaviour, driving infraction, fare disagreement, fare refusal and route issues. The next highest source of complaints in 2011 was in relation to network service providers (NSPs), at 6.6 per cent of total complaints to the VTD, with 77 per cent of these complaints relating to their customer service.

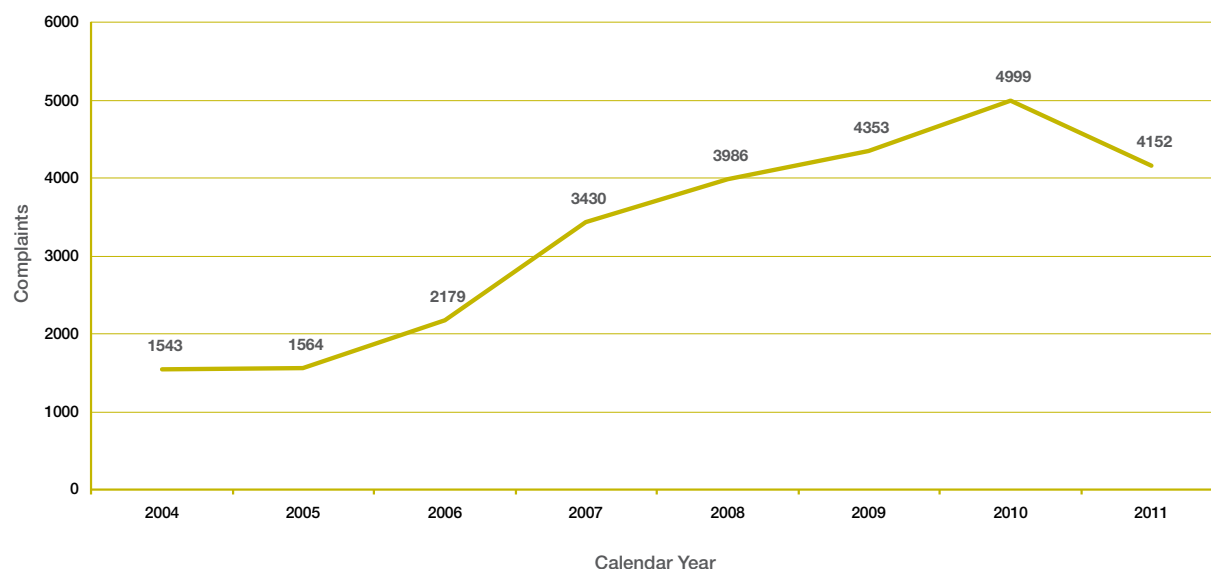
The Victorian Taxi Association has argued that the number of formal complaints lodged with the VTD is very low compared with the total number of taxi trips and that this likely indicates that customers are generally satisfied. The inquiry does not accept this interpretation. Aside from the DOT's customer satisfaction surveys, the inquiry commissioned further research that produced clear findings that problems are widespread and that most customers who experience a problem with a taxi service do not make a formal complaint.

5.1.2. The costs of poor service and consumer detriment

To better understand the nature and significance of problems within the taxi and hire car industries, the inquiry commissioned research on the 'consumer detriment' that has been associated with use of taxis and hire cars in Victoria over the last 12 months.

The concept of 'consumer detriment' has been developed by economists and social researchers to describe the cost of detriment that consumers experience in purchases they have made. 'Detriment' describes circumstances where consumers experience some problem with the quality or delivery of products or services they have purchased, such as issues related to faults, errors, poor service, or the product not meeting performance claims.⁴ The Australian Government recognises that identifying and measuring the nature and magnitude of consumer detriment is a crucial component of evidence-based policy making.⁵

Figure 5.2 Number of complaints lodged with the Victorian Taxi Directorate, 2004 to 2011



Source: VTD

4 Further information on work by Consumer Affairs Victoria of the costs of consumer detriment to Victorians is available at: [www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Reports_and_Guidelines/\\$file/cav_report_consumer_detriment_10.pdf](http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Reports_and_Guidelines/$file/cav_report_consumer_detriment_10.pdf), accessed 19 April 2012

5 Australian Government (March 2011), Consumer Policy in Australia: A companion to the OECD consumer policy toolkit, p.19

Consumer detriment has two components:

- 'Structural detriment', which is related to either market or regulatory failures – in the case of taxis, the key issue of concern is likely to be regulatory failures that have resulted in limited licence supply, high prices and poor service.
- 'Personal detriment', which arises when goods or services acquired by consumers do not live up to expectations – in the case of taxis, this might be reflected in financial losses incurred due to delays (such as missed flights and appointments) or in complaining about services; or non-financial losses such as emotional stress, frustration and insecurity.

Customer dissatisfaction

The inquiry commissioned two research studies that touch on the frequency of problems experienced by taxi users.

These studies both indicate that problems are relatively widespread.

The Ipsos survey found that four out of 10 taxi users have experienced a problem with taxi services in the previous 12 months, while the Latitude Insights survey found that around nine in 10 users had experienced a problem.



Given the similar nature of the questions asked, the inquiry is not certain of the cause of the wide range of problem incidence. Nonetheless, even at the lower end the incidence is significant.

In both surveys, the vast majority (82 to 84 per cent) of customers who had a problem with a taxi service in the previous 12 months did not complain about the problem.

The inquiry engaged Latitude Insights to undertake some specific research on consumer detriment in Victoria.⁶ The research found that current perceptions of taxi services in Victoria are highly varied. On a quality scale of 0-10, just over one in three (34 per cent) taxi users rated the quality of the taxi industry negatively (rating 0-4), while 49 per cent rated the quality of the taxi industry positively (6-10), denoting a slightly positive skew overall.

The research also found that the incidence of problems is widespread. Across the total sample of taxi users, 93 per cent had encountered at least one problem in using taxis in the past 12 months. This equates to approximately 2.8 million Victorians aged 15 years and older encountering at least one problem with a Victorian taxi service in the past 12 months.

Problems with taxi services are common both when accessing taxis (82 per cent of taxi users) and during the taxi trip itself (87 per cent of taxi users). Problems are more likely to be experienced in Melbourne than in regional Victoria. In fact, almost half of the problems (46 per cent) experienced by those living in regional areas occurred in metropolitan Melbourne.

On the specific magnitude of consumer detriment, costs experienced were broken into emotional, financial and lost time (which can also be financially valued). The research found that, extrapolating from the survey data, the costs from poor service are likely experienced by a large number of Victorians, as summarised in Figure 5.3.

⁶ Full details of the objectives, methodology and results of this research can be found in Latitude Insights (2012), *Taxi Services Commission: Consumer Detriment Research – Final Report, Prepared for the Taxi Industry Inquiry*, available from the inquiry's website

Figure 5.3 Victorians experiencing a problem, by type

Nature of detriment experienced extrapolated to Victorian population aged 15 and older
Regarding most recent problem

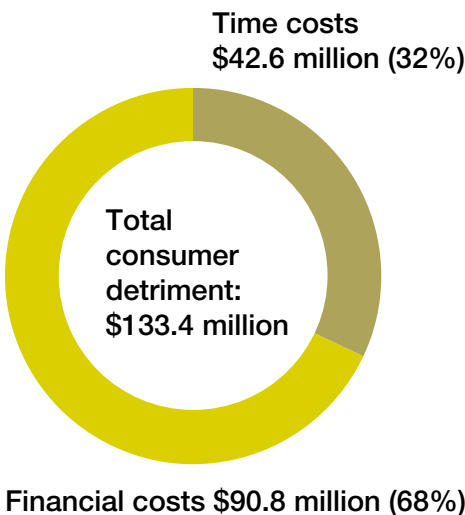


Source: Latitude Insights (2012)

Note: To derive 50% in first bar: 66% of Victorians were found to be taxi users, and 93% of that 66% experienced a problem. 81% of those users incurred some detriment. Hence $66\% \times 93\% \times 81\% = 50\%$.

While it is not possible to quantify emotional costs, estimates of financial costs and time costs can be derived by asking consumers about their experiences and valuing the lost time. Based on problems using or attempting to use taxis in Victoria over the past year, the estimated personal detriment to taxi users is about \$133.4 million (see Figure 5.4). As a point of comparison, the Taxi Industry Inquiry estimates that the total revenue earned by Victorian taxis annually is approximately \$700 to \$800 million.⁷

Figure 5.4 Estimate of total consumer detriment, 2011, financial and time costs



Source: Latitude Insights (2012)

Consumer detriment from problems with using or accessing taxi services also appears to be having an impact on the demand for taxi services. Taxi users who have experienced problems report shifting in preference to alternative transport options, with 60 per cent of those experiencing problems over the last 12 months claiming they were less likely to consider using a taxi in the future (19 per cent much less likely and 41 per cent a little less likely). The most common alternative form of transport these users would turn to was to drive themselves (61 per cent), followed by asking for a lift from family/friends/colleagues (57 per cent) and using public transport (52 per cent). These results also emphasise that the main substitute for taxis is not public transport but private vehicles.

5.2. Supply and demand

The poor consumer outcomes highlighted above could be caused by a number of factors. To better understand these factors, it is helpful to consider some of the basic information about how the industry is structured, how it supplies services and how this influences availability for consumers and waiting times. Information is also provided about how consumers use taxi services, taking these supply issues into account.

⁷ See section 5.2.1

5.2.1. Revenue and trips

Metropolitan Melbourne

The inquiry has been able to obtain detailed trip and booking records from NSPs in metropolitan Melbourne. These data represent a significant advance on data that has been used in previous industry reviews and publications.

A summary of important high level market indicators is presented in Table 5.1.

Table 5.1 Revenue and trip data, Melbourne 2011

Total revenue [#]	\$621,102,000
Total trips	26,345,700
Average trip length	9.7 km
Average fare estimate	\$23.57
Trips per non-peak taxi [^]	6,450
Total passenger kilometres	255,436,225
Average passenger kilometres per non-peak taxi [^]	62,530
Average trip time	16 minutes, 4 seconds
Average trip speed	36.3km/h

Source: TII analysis of metropolitan Melbourne NSP data

Notes: # excludes electronic payment charges, tolls and airport charges (calculated by applying the VTD fare estimation algorithm to passenger kilometre data). Also excludes \$2 booking fee, tariff 3 levies charged for high occupancy vehicle work, premium booking fees, lifting fees paid by the government for the carriage of wheelchair users.

[^] based on an average of 4,232 taxis on the road in 2011, adjusted for 588 peak service taxis

These data indicate that annual trips and trips per taxi are substantially lower than has been reported in earlier studies on the Melbourne market.⁸

From these data, the inquiry has also calculated that the average taxi in metropolitan Melbourne in 2011 earned \$146,700 in revenue. This is based on an average of 4,232 vehicles being on the road through 2011. As 588 of these are peak service vehicles, which are only able to operate between the hours of 3pm to 7am, the revenues for conventional taxis are likely to be just over \$152,000 on average.

Across Victoria

The inquiry also obtained some data from other non-metropolitan Melbourne NSPs. These data can be used to estimate the total number of trips across Victoria. The inquiry estimates the total number of trips as being between 32 million and 35 million in 2011. Total revenue is likely to be between \$700 million to \$800 million.

Demand peaks and the split between rank, hail and booked work

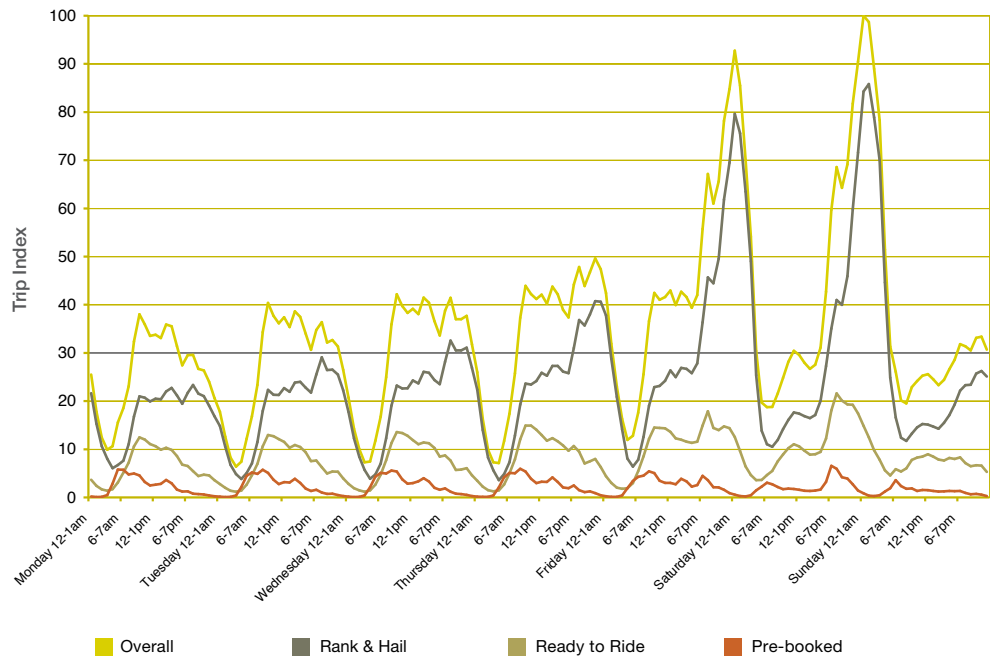
Historically, the split between rank or hail and booked work in Melbourne has been thought to have been about 50 per cent.⁹ The inquiry's analysis of NSP data has revealed that the proportion of booked work has been significantly overstated. The actual percentage in 2011 was 30.3 per cent booked through an NSP, either 'ready-to-ride' or pre-booked and 69.7 per cent acquired at a rank, hailed or booked through another source such as a mobile phone.

The pattern of trips is highlighted in Figure 5.5. There are significant demand peaks on Friday and Saturday nights, which are extensively catered for by rank and hail work rather than booked work. The share of rank and hail work at some times exceeds 80 per cent of trips.

⁸ For example, see figures reported in the Essential Services Commission's 2008 fare review

⁹ Ibid.

Figure 5.5 Melbourne total trips index and split between rank and hail and bookings, 2011



Source: Melbourne metropolitan NSP data

5.2.2. Licence numbers

Taxi licences

A core constraint on the supply of taxi services is the numbers of licences available. Taxi licences are issued with licence conditions that limit the operation of the vehicle to a taxi zone.

A number of different types of licence have also been issued. Licences have been issued that specifically require the operator to use a wheelchair accessible vehicle. Other licences include 'peak service' licences that service the Melbourne metropolitan zone, but only between 3pm and 7am.

The licence breakdown in the metropolitan zone is shown in Table 5.2.

Table 5.2 Melbourne metropolitan licences, as at March 2012

Full service licences	3,233
Wheelchair accessible taxi licences	514
Peak service licences	588
Total	4,335

Source: VTD

Note: 2 WATs operate on a peak service licence, 1 WAT operates on a full service licence

Table 5.3 shows the number and type of licence issued in each taxi service area. The majority of taxi service areas are very small, with fewer than three licences. There are a similar number of areas with between five and 15 licences, and a few larger areas. The metropolitan area has by far the greatest number of licences.

Table 5.3 Numbers and types of taxi vehicles in Victoria by zones, March 2012 #

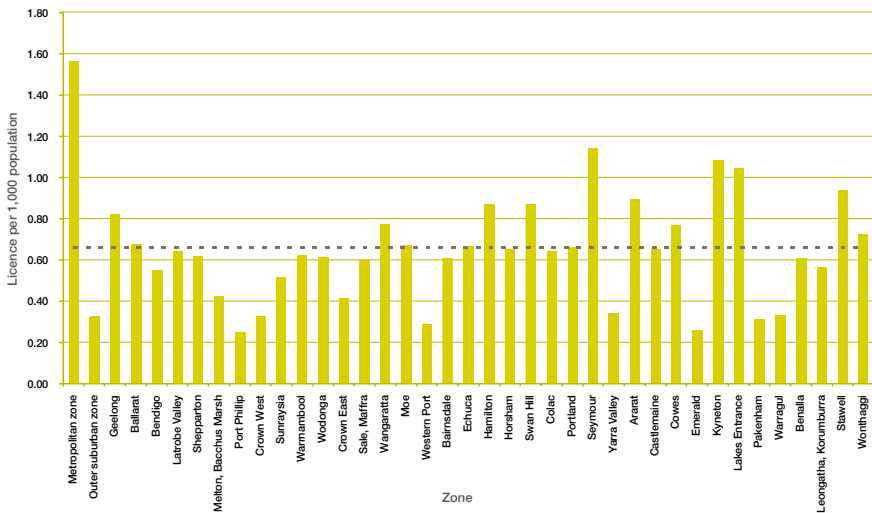
Less than 3 taxis	Number and type	3 – 15 taxis	Number and type	15+ taxis	Number and type
Apollo Bay	1 C , 0 WAT	Cobram	1 C , 2 WAT	Crown West	18 C , 1 WAT
Ballan	1 C , 0 WAT	Euroa	2 C , 1 WAT	Sunraysia	14 C , 5 WAT
Casterton	1 C , 0 WAT	Heathcote	2 C , 1 WAT	Warrnambool	16 C , 3 WAT
Cohuna	1 C , 0 WAT	Koo Wee Rup, Tooradin, Lang Lang	2 C , 1 WAT	Port Phillip	17 C , 5 WAT
Corryong	1 C , 0 WAT	Kyabram	3 C , 0 WAT	Melton, Bacchus Marsh	20 C , 5 WAT
Dunolly	1 C , 0 WAT	Mansfield	2 C , 1 WAT	Shepparton	19 C , 4 WAT
Foster	1 C , 0 WAT	Port Fairy	2 C , 1 WAT	Latrobe Valley	23 C , 5 WAT
Halls Gap	1 C , 0 WAT	Robinvale	2 C , 1 WAT	Bendigo	38 C , 7 WAT
Koondrook	1 C , 0 WAT	Rochester	3 C , 0 WAT	Ballarat	50 C , 7 WAT
Loch Sport	0 C , 0 WAT	St Arnaud	3 C , 0 WAT	Geelong	114 C , 21 WAT
Lorne	1 C , 0 WAT	Timboon	2 C , 1 WAT	Outer suburban zone	127 C , 33 WAT
Merbein	0 C , 1 WAT	Drysdale, Port Arlington	3 C , 1 WAT	Metropolitan zone	3808 C , 516 WAT
Mount Beauty	1 C , 0 WAT	Maryborough	3 C , 1 WAT		
Neerim South	1 C , 0 WAT	Torquay	3 C , 1 WAT		
Newborough	1 C , 0 WAT	Ocean Grove*	3.5 C , 1 WAT		
Ouyen	0 C , 1 WAT	Camperdown	4 C , 1 WAT		
Trafalgar	1 C , 0 WAT	Daylesford	4 C , 1 WAT		
Wahgunyah	1 C , 0 WAT	Yarrawonga	4 C , 1 WAT		
Warracknabeal	1 C , 0 WAT	Benalla	3 C , 3 WAT		
Welshpool	1 C , 0 WAT	Leongatha, Korumburra	4 C , 2 WAT		
Wesburn	1 C , 0 WAT	Stawell	4 C , 2 WAT		
Yackandandah	1 C , 0 WAT	Wonthaggi	5 C , 1 WAT		
Yarram	1 C , 0 WAT	Ararat	6 C , 1 WAT		
Alexandra	2 C , 0 WAT	Castlemaine	6 C , 1 WAT		
Anglesea	1 C , 1 WAT	Cowes	5 C , 2 WAT		
Bannockburn	1 C , 1 WAT	Emerald	5 C , 2 WAT		
Beechworth	2 C , 0 WAT	Kyneton	5 C , 2 WAT		
Bright	2 C , 0 WAT	Lakes Entrance	4 C , 3 WAT		
Creswick	2 C , 0 WAT	Pakenham	4 C , 3 WAT		
Dimboola	2 C , 0 WAT	Warragul	5 C , 2 WAT		
Drouin	2 C , 0 WAT	Colac	6 C , 2 WAT		
Garfield	2 C , 0 WAT	Portland	6 C , 2 WAT		
Grantville	2 C , 0 WAT	Seymour	5 C , 3 WAT		
Inverloch	2 C , 0 WAT	Yarra Valley	8 C , 0 WAT		
Kerang	2 C , 0 WAT	Bairnsdale	6 C , 3 WAT		
Metung	2 C , 0 WAT	Echuca	7 C , 2 WAT		
Myrtleford	2 C , 0 WAT	Hamilton	6 C , 3 WAT		
Nagambie	1 C , 1 WAT	Horsham	4 C , 5 WAT		
Numurkah	2 C , 0 WAT	Swan Hill	7 C , 2 WAT		
Orbost	1 C , 1 WAT	Western Port	9 C , 1 WAT		
Paynesville	1 C , 1 WAT	Moe	10 C , 1 WAT		
Red Cliffs	1 C , 1 WAT	Crown East	9 C , 3 WAT		
Rushworth	1 C , 1 WAT	Sale, Maffra	10 C , 2 WAT		
Tatura	2 C , 0 WAT	Wangaratta	9 C , 3 WAT		
Wedderburn	2 C , 0 WAT	Wodonga	10 C , 5 WAT		
Winchelsea	1 C , 1 WAT				
Woodend	2 C , 0 WAT				
Point Lonsdale*	2.5 C , 0 WAT				

Source: VTD

Notes: C = Conventional taxi, WAT = Wheelchair accessible taxi, * = One taxi is permitted to stand in both Ocean Grove and Point Lonsdale taxi service areas. Therefore, in order to accurately represent both percentages and taxis per population, 0.5 of a taxi has been assigned to each of these taxi service areas, # = This table does not include 16 licences issued but not attached to a vehicle

An indication, although imperfect, of taxi availability can be derived by comparing the number of licences on issue to the population served by these taxis. This is shown in Figure 5.6.

Figure 5.6 Number of taxi licences, Victoria, 2011, ratio compared to population within taxi zone



Source: VTD, Inquiry analysis

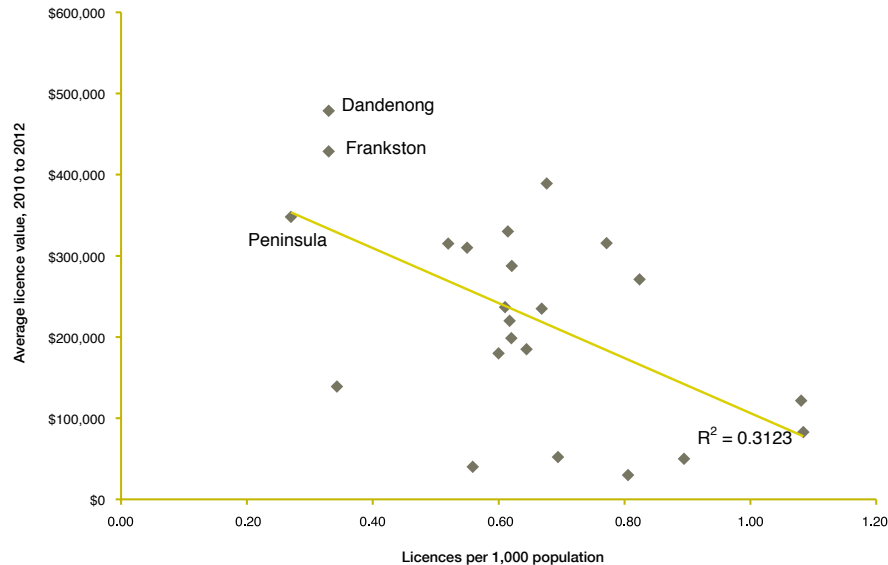
Notes: Only zones with more than five licences used in this comparison

These data suggest the following:

- Melbourne is better served with taxis than most other areas in Victoria. The demand for taxi services is likely to be higher in Melbourne due to factors such as lower rates of private vehicle ownership and availability of public transport.
- Many areas adjacent to Melbourne have very low taxi to population ratios: the outer suburban zone, Western Port and Port Philip zones covering the Mornington Peninsula, Emerald, Pakenham and the Yarra Valley.
- Other major urban centres, such as Ballarat and Bendigo, have fewer than half the number of taxis per 1,000 population than Melbourne, while Geelong has just over half.

The inquiry further investigated the relationship between observed licence values in non-metropolitan areas and licences on issue (per 1,000 population). Such a relationship does exist, as illustrated in Figure 5.7: fewer licences per head of population imply a greater restriction on supply and higher profits earned. This figure uses data on sale prices for licences in non-metropolitan areas (see Figure 5.20).

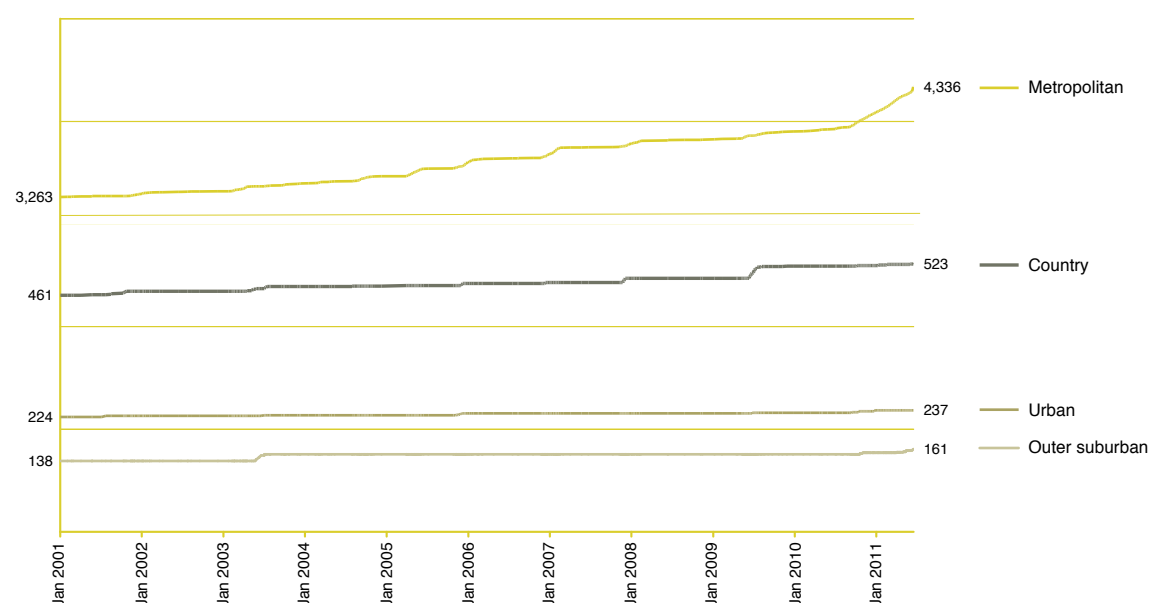
Figure 5.7 Relationship between licence values and licences per 1,000 population



Source: TII analysis of VTD data

The inquiry has also examined the growth in licences over time (since 2001). Over this period, growth in metropolitan Melbourne has been greater than in other areas of Victoria. Further, in the last 10 years, the growth in licences has been slower than population growth in non-metropolitan areas (as shown in Figure 5.8).¹⁰

Figure 5.8 Taxi licences issued by type, 2001 to 2011



Source: TII analysis of VTD data

Hire car licences

Metropolitan and country hire car licences are issued for pre-booked point-to-point commercial passenger vehicle work undertaken in luxury vehicles. Applicants are issued with VHA, VHB or VHC licence plates depending on their operational address. Special Purpose Vehicle (SV) licences are issued for the pre-booked carriage of passengers for weddings and tours. Restricted Hire Vehicle (RH) licences are issued for the pre-booked carriage of passengers in vehicles aged over 25 years, motorcycle/tricycle tours, 4WD off-road tours and vehicles with between eight and nine seats. Table 5.4 shows the current numbers and distribution of licence types.

Table 5.4 Hire car licences in Victoria, by region and type

	Metropolitan	Regional
VHA/VHB	925	0
VHC	0	70
SV	755	229
RH	504	198
TOTAL	2,184	497

Source: VTD

5.2.3. Availability and taxi use

The inquiry's data on availability was received from the VTD, who can track the number of vehicles on the road. Data on numbers of trips that are taken (including work pre-booked through the network as well as rank and hail work) was received from NSPs.

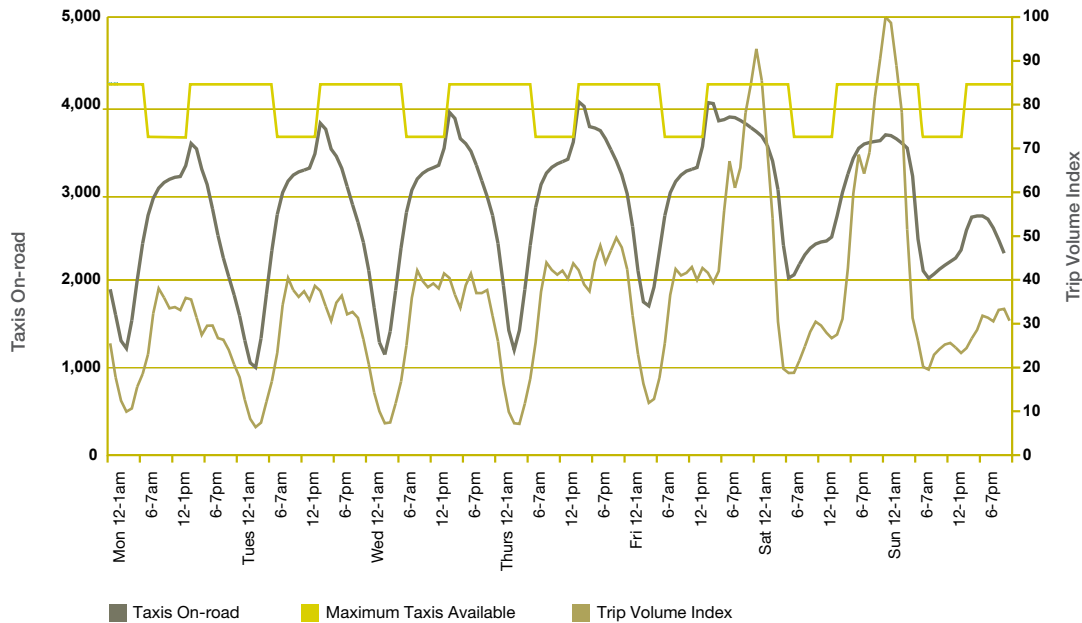
Availability and use through the week

Figure 5.9 plots hourly availability, as well as two other variables:

- The total number of taxis that would be theoretically available, based on the total number of licences
- A trip index, which estimates the maximum actual taxi use by consumers and gives that a value of 100 (Saturday night) and scales use at other times to this point. This is plotted on the right hand axis.

¹⁰ See chapter 10

Figure 5.9 Metropolitan taxi availability for whole week, 2011



Source: Melbourne metropolitan NSP data, VTD

These data highlight some performance characteristics of the Melbourne taxi market:

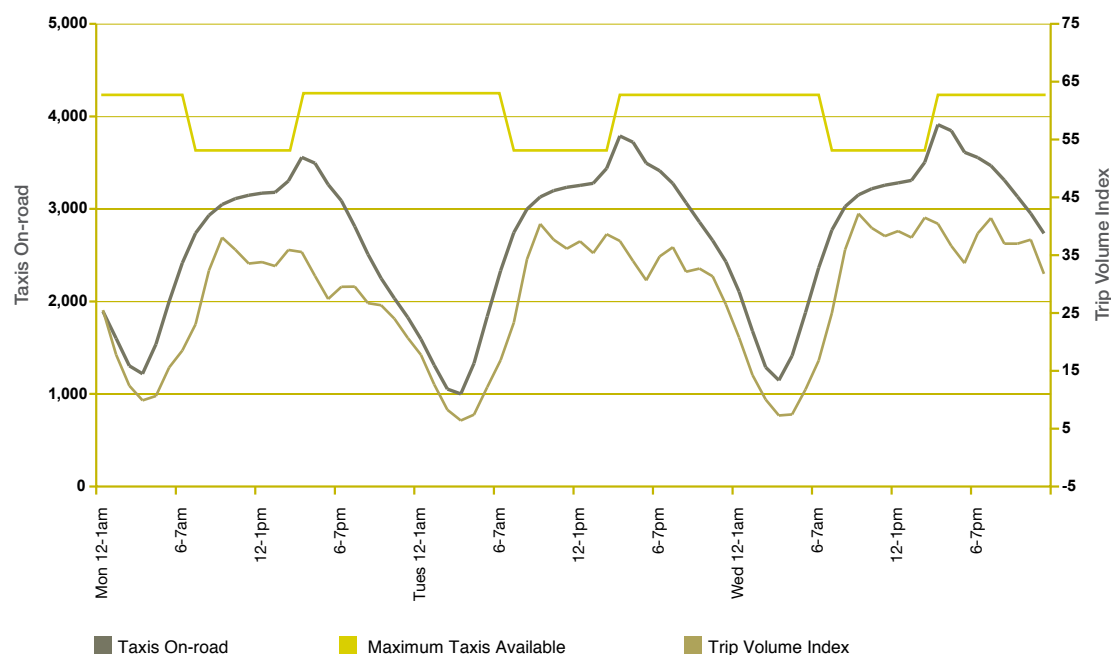
- Daytime periods are the peak use time during the week, while night times are the peak (and overall peak) on Friday and Saturday nights.
- The supply of taxis is much less peaked across the week than is taxi use, which is much higher on Friday and Saturday nights.
- Friday and Saturday evenings display two distinct peaks the early evening as people head out to social engagements and later after midnight as they move between engagements or return home.
- For two brief peak periods each week there is a relative shortage of taxis when it would be expected that waiting times for customers would significantly lengthen (each Friday and Saturday evening from around midnight until about 2am).
- It is not clear whether there are sufficient taxis to meet demand at other times. This would need to be inferred from utilisation and how close this is to maximum achievable performance.

A more detailed breakdown of these data allows further interesting characteristics to emerge.

In Figure 5.10, which covers Monday to Wednesday, three further things can be observed:

- The pattern of taxi use broadly tracks vehicle availability, although this does not reveal whether vehicle availability influences taxi use.
- The peak service vehicles which are allowed to operate from 3pm result in a spike in vehicle availability, but this is matched by a fall in taxi use.
- The peak service vehicles must be off the road by 7am, at which point the morning peak demand is just beginning.

Figure 5.10 Metropolitan taxi availability for weekday



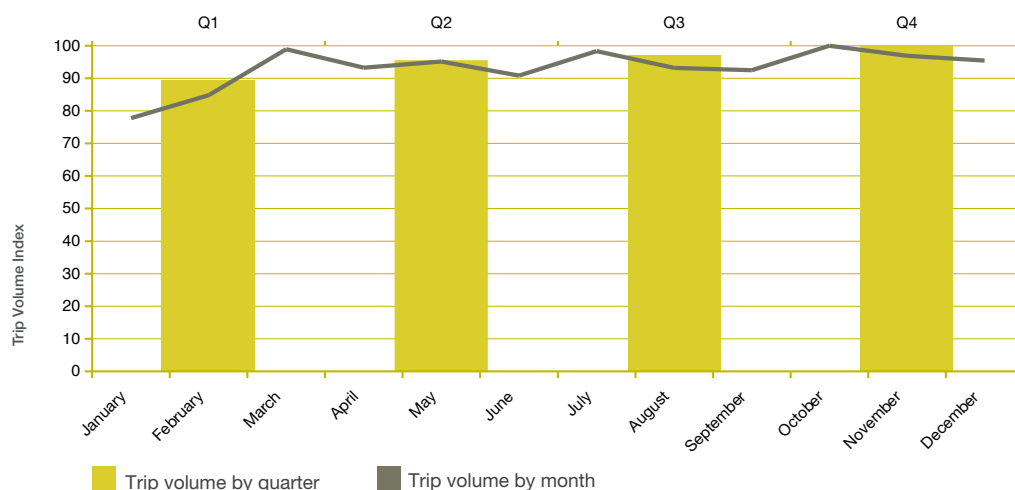
Source: Melbourne metropolitan NSP data, VTD

Use through the year

Taxi demand varies across the week and also across the year. January has traditionally been seen as a quieter month, while there are spikes at Christmas time and during special events such as the Spring Racing Carnival.

Data provided to the inquiry largely bears these perceptions out. January shows a significant fall in trip volumes compared to other months. December is not as high as might be expected, but this may be explained by a quieter last week of December. These trends are shown in Figure 5.11.

Figure 5.11 Seasonality in metropolitan taxi trip volumes, 2011



*Variation in month-by-month volumes is influenced by an inconsistent number of weekend days each month and also major events, e.g. AFL Grand Final on 1 October

Source: Melbourne metropolitan NSP data

5.2.4. Trip lengths and fares

Trip lengths

As highlighted in Table 5.1, the average trip length in metropolitan Melbourne in 2011 was 9.7km.

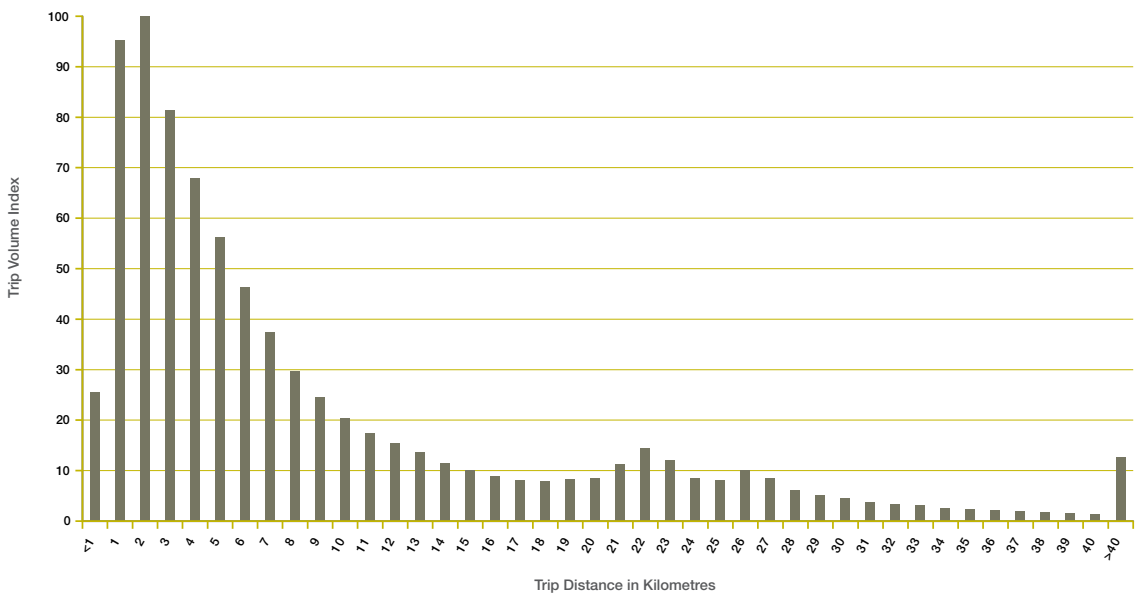
This average trip length masks some important information about the distribution of trips. In particular, the modal trip length (the most common trip length) is between two and three kilometres and the median trip length (the mid-point) is between four and five kilometres, while there is a significant ‘bump’ at the point where longer airport journeys are an obvious influence. This is highlighted in Figure 5.12.

Further analysis by the inquiry has revealed that airport journeys account for 13 per cent of total journeys, but 30 per cent of fare revenue. Trips below five kilometres account for more than 50 per cent of journeys, but less than 24 per cent of fare revenue.

Trip lengths by time

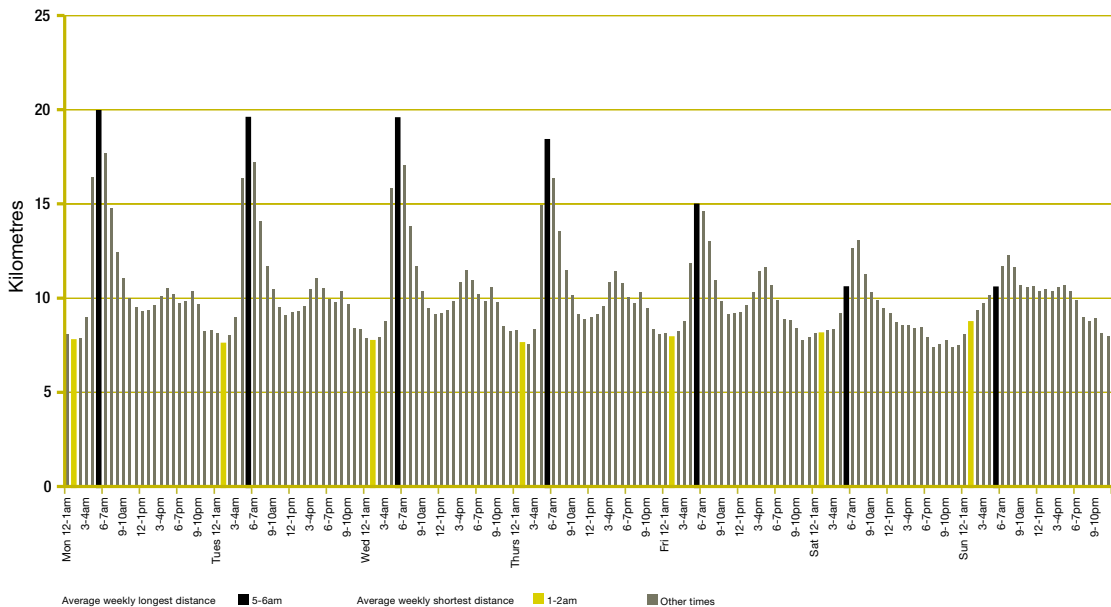
The inquiry’s examination of data on trips reveals that there is a considerable difference in the pattern of taxi use across the week. Figure 5.13 shows that trips tend to be much longer between 5am and 6am, which appears to come from a significant ‘airport peak’. Late at night, and particularly on Friday and Saturday nights, trips tend to be shorter and presumably focused around more central city areas.

Figure 5.12 Distribution of trip lengths, metropolitan Melbourne, 2011



Source: Melbourne metropolitan NSP data

Figure 5.13 Average metropolitan trip lengths by day and hour



Source: Melbourne metropolitan NSP data

Trip lengths and fares over time

A further way to look at the data is to observe changes in trips lengths and average fares over the course of the day. In Figure 5.14, the ‘airport peak’ is again observable in the data, with higher trip lengths and average fares at the times when airport traffic predominates.

The overall average fare varies from \$33.28 in the hour 6am to 7am to \$19.38 in the 11pm to 12 midnight time period. This suggests that while late night users on Friday and Saturday night are responsible for many journeys, these journeys tend to be shorter than average. The influence of the ‘late night tariff’ is also observable in this figure between the hours of 12 midnight and 5am.

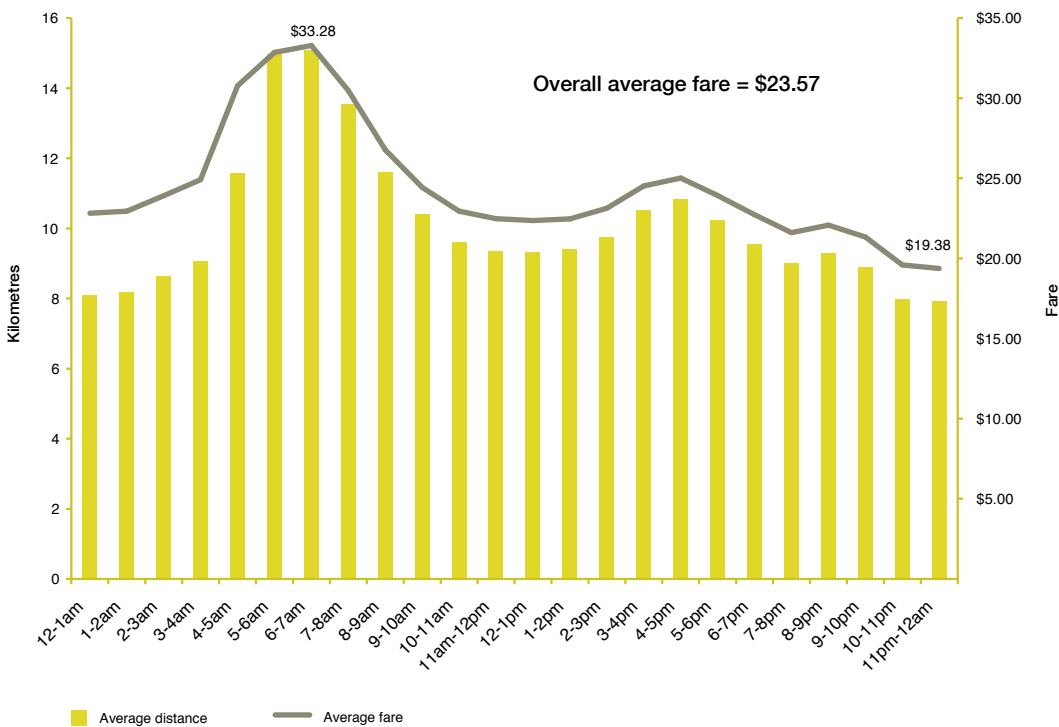
Airport trips

As identified above, trips to Melbourne Airport (Tullamarine) are a significant feature of Melbourne’s taxi and hire car markets. Compared to other jurisdictions, these trips are particularly important in Melbourne because the distance between common origination and destination points (the CBD) for airport journeys is high. Indicative data on average trip lengths indicates that the average airport trip (to or from the airport) covers over 26 kilometres.

Table 5.5 compares airport and non-airport journeys and reveals some important distinctions, including that average non-airport journeys are 7.2 kilometres in length and that 30 per cent of all taxi industry revenue comes from journeys to and from the airport.

Although the inquiry does not hold any data on hire car journeys, estimates received by the inquiry are that over 80 per cent of all hire car revenue also comes from journeys to and from the airport.

Figure 5.14 Metropolitan average fare and trip distance by hour



Source: Melbourne metropolitan NSP data

Table 5.5 Airport and non-airport journeys, metropolitan Melbourne, 2011

	Average trip length (km)	% of trips	Trips	% of revenue	Revenue
Total airport trips	26.7	13%	3,438,000	30%	\$186,847,000
Non-airport trips	7.2	87%	22,908,000	70%	\$434,255,000

Source: Melbourne metropolitan NSP data

5.2.5. Waiting times

The time spent waiting for a taxi is a critical element of taxi service quality. Notwithstanding the importance of this aspect of service performance, the inquiry has had considerable difficulty in obtaining relevant and verifiable data about the ability of the industry to meet demand at peak times (and non-peak times).

Surveys of waiting times at major ranks are not undertaken, either during seasonal peak times or off-peak times. The inquiry also sought data from major metropolitan NSPs on observed waiting times across the week for 'ready-to-ride' and 'in advance' bookings (where the waiting time is the time between the booking time and the time the taxi arrives).

These data indicate that, despite the common understanding – and widespread anecdotal evidence – that it is difficult to get a taxi on Friday or Saturday nights, wait times for ready to ride passengers who make a booking through a network are not substantially higher at this time – only by a couple of minutes. This is shown in Figure 5.15.

Further exploration of these data with NSPs indicated that the reason for the relatively stable waiting times is that the network call centres constrain the amount of bookings that are handled by their systems. This is done in accordance with their judgement of the number of bookings that can be effectively covered by the taxis available to their fleet. Consumers making bookings at this time receive an engaged tone.

The inquiry therefore concludes that measured waiting times for pre-booked work do not accurately represent the true state of unmet demand.

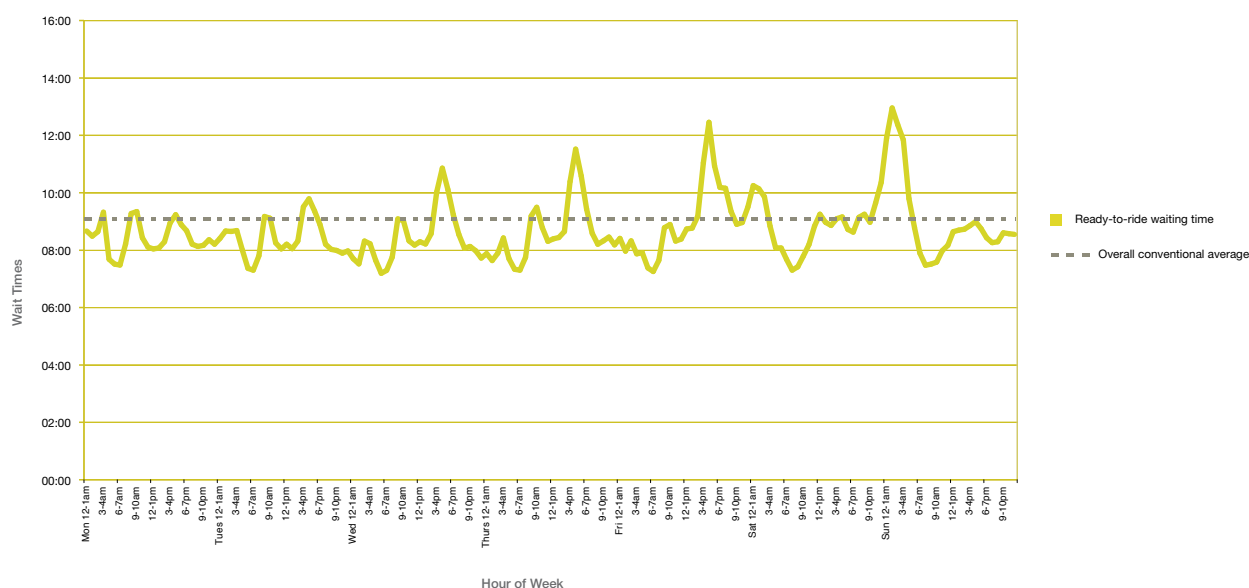
The DOT does commission regular surveys on customer satisfaction with wait times for booking services and for finding taxis on the street. Responses are marked on a scale of 1 to 10, with the most recent available survey (October - December 2011) indicating that:

- Satisfaction with wait times is significantly higher on Mondays to Thursdays, rating just over 7 out of 10, than with wait times on Fridays and weekends, which rates about 5.8 out of 10.¹¹
- Similar findings apply to satisfaction with the availability of taxis on the street on Mondays to Thursdays compared to Friday and weekends (7.0 to 5.5).¹²
- Overall satisfaction with finding taxis on the street has fallen from 6.6 to 6.1 between 2006/07 and 2010/11.¹³

Waiting times for WATs

The Victorian Government has introduced a number of measures in recent years to improve the performance of wheelchair accessible taxi (WAT) vehicles, including lowering waiting times. The 330 new WAT licences (not all taken up) released through the course of 2010 and 2011 were a significant boost to the WAT fleet in Melbourne and were designed to ensure that people with mobility issues can access taxi services more easily.

Figure 5.15 Ready-to-ride response time by day and hour, minutes



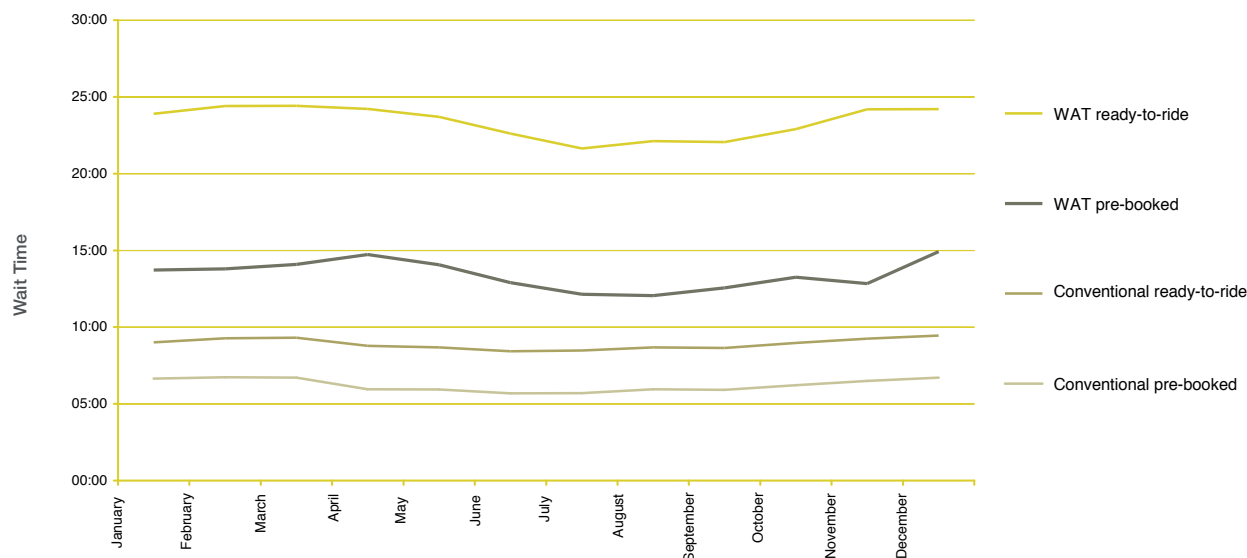
Source: Inquiry analysis of metropolitan NSP data

11 Wallis Consulting Group P/L (2011), Op. Cit., 3.2I, 3.2J

12 Ibid., 4.2E, 4.2F

13 Ibid., 4.2A

Figure 5.16 Comparison of ready-to-ride time between conventional taxis and WATs, 2011



Source: Melbourne metropolitan NSP data

Waiting times for WAT vehicles for 'ready-to-ride' bookings and for pre-bookings remain well above those for conventional taxis. This is shown in Figure 5.16.

5.3. Consumer prices for taxis and associated services

Figure 5.17 shows the progress of taxi fares, in both nominal and real (inflation adjusted) terms expressed as indexes, and the Melbourne consumer price index (CPI).¹⁴

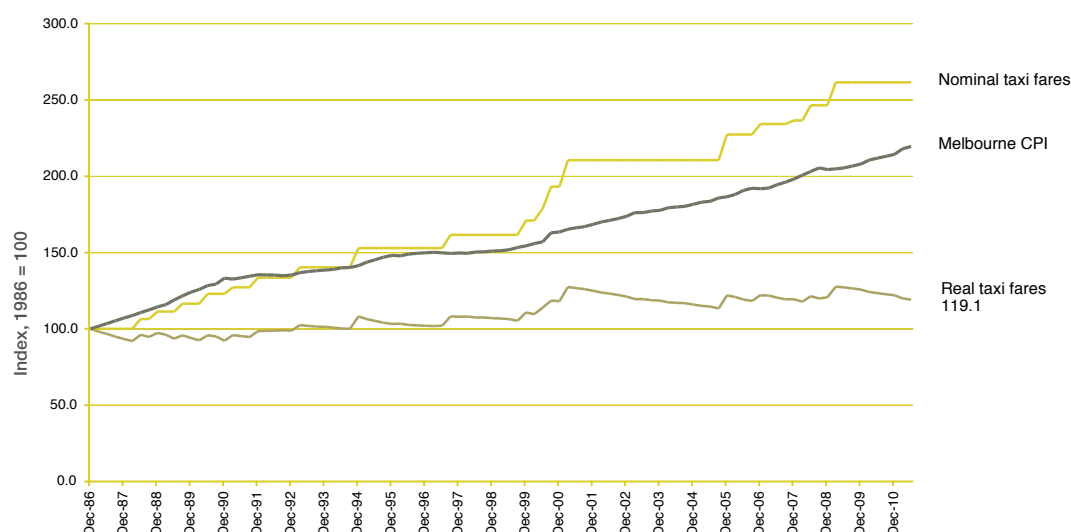
Between 1986 and the present, there have been 19 fare increases. Overall, fares have risen by nearly 180 per cent since 1986. The average fare increase granted has been 5.5 per cent. Only since 2005 have these been the result of the Essential Services Commission (ESC) (public and transparent) fare reviews.

The big jump in fares around 2000 includes the introduction of the GST on July 2000 (eight per cent) and a nine per cent increase in December 2000, which included 5.3 per cent to account for an LPG price rise, 2.15 per cent to deal with 'general industry cost rises', 0.94 per cent to offset the cost of installing cameras and 0.62 per cent to offset WorkCover premium increases.

Fares have risen faster than CPI (meaning they have grown in real terms) over the last 25 years – CPI rose by nearly 120 per cent compared to nearly 180 per cent for taxi fares.

¹⁴ The following discussion uses a fare index which is based on an 'average' trip which consists of the flagfall, a phone booking fee, a 10 km distance charge and four minutes of 'waiting' time (ie where the taxi is travelling at a slow speed and the fare is calculated in increments of time not distance)

Figure 5.17 Changes in taxi fares, 1986 to 2012



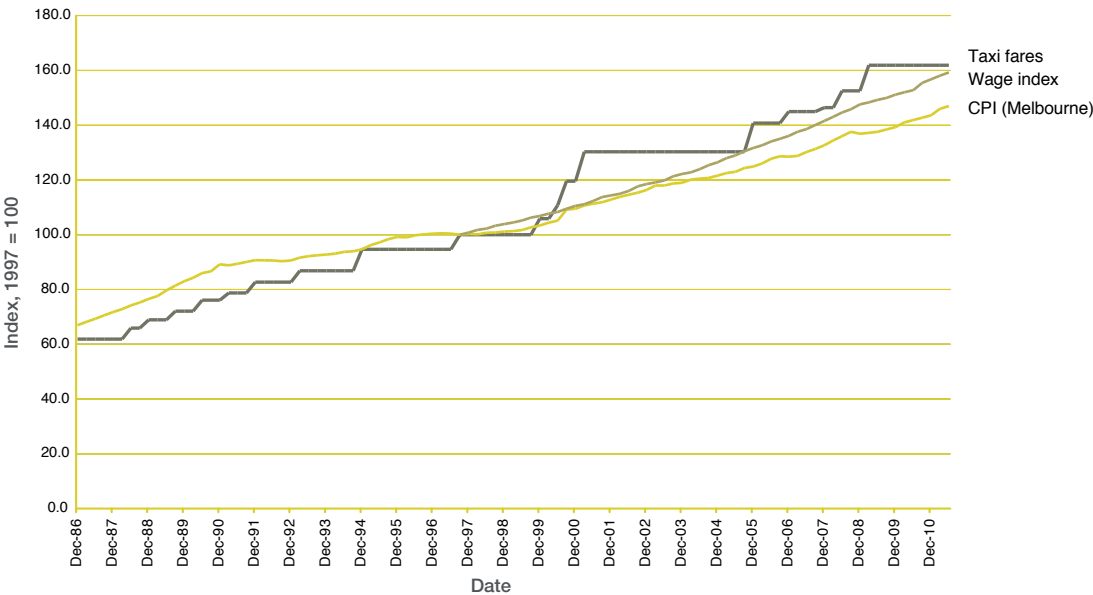
Source: Inquiry analysis of VTD, ABS data

There may be good reasons for the discrepancies in the rate of change in these indexes. The CPI measures a general basket of goods and services, while taxis are a service. This service is probably more labour intensive than the average item in the CPI basket.

Other more comparable indices include those for labour costs and for transport services. Labour cost index data from the ABS is only available from September 1997. Since then, as illustrated in Figure 5.18, both labour costs and taxi fares have risen by around 60 per cent. As the cost of labour is a significant proportion of taxi costs, a close relationship between fares and labour costs might be expected. However, it should be noted that wages in fare setting processes are entirely nominal: there is no evidence that actual payments to drivers have gone up by 50 per cent over this same period.

Since 1986, the transport price index has risen by around 105 per cent, compared to the 180 per cent rise in taxi fares. Although this might suggest that taxi fares have run ahead of costs, the transport price index includes many services that are much less labour intensive than taxis, such as most forms of public transport, freight and so on. These activities may have benefited more than taxis from real reductions in vehicle costs over the last 25 years, given that the cost of a truck or a bus is a much higher proportion of total business costs than the cost of a taxi.

Figure 5.18 Taxi fares, wages and Melbourne CPI



Source: Inquiry analysis of VTD, ABS data

In summary, the information presented suggests that real fares have risen, but that this is not entirely unexpected given possible changes in input costs. However, in combination with data on the price of licence assignments (discussed in the section 5.4), these data indicate that the industry has been successful in using fare rises to compensate for both rising costs and rising assignment values.

5.3.1. Current structure of taxi fares

The current fares have been in place since December 2008, following the Government's response to the 2008 ESC Fare Review. The current fares are set out in Table 5.6.

The structure of the fares has been evolving, but many elements have been in place for some time. The various reviews and ad hoc changes have resulted in minor differences across metropolitan, urban and country zones – for example, the application of the late night surcharge and the level of some elements.

All taxis in Victoria are required to have a meter and to input these fares into their meters. Fares for hire cars are negotiated and hire cars are not allowed to have meters.

Table 5.6 Current Victorian taxi fares

	Metro	Urban	Country
Flagfall	\$3.20 when meter is started	\$3.20 when meter is started	\$3.30 when the meter is started
Distance	\$1.617 per kilometre	\$1.634 per kilometre	\$1.67 per kilometre
Time	56.6 cents per minute if the speed is below 21 kilometres per hour	57.2 cents per minute if the speed is below 21 kilometres per hour	58.5 cents per minute if the speed is below 21 kilometres per hour

For taxis carrying five to 11 passengers for non-wheelchair hiring where the hirer specifically requests a larger than standard taxi (regardless of the number of passengers carried), the following fares apply.

	Metro	Urban	Country
Flagfall	\$3.20 when meter is started	\$3.20 when meter is started	\$3.30 when the meter is started
Distance	\$2.42 per kilometre	\$2.451 per kilometre	\$2.505 per kilometre
Time	85 cents per minute if the speed is below 21 kilometres per hour	85.8 cents per minute if the speed is below 21 kilometres per hour	87.75 cents per minute if the speed is below 21 kilometres per hour

The following extras are automatically calculated on the taximeter or should be entered on the meter at the start of the trip.

	Metro	Urban	Country
Phone booking	\$2.00	\$2.10	\$2.10
Late night fee	Surcharge of 20 per cent (midnight to 5am)	\$3.00 (midnight to 6am)	
Holiday surcharge	Surcharge of 20 per cent all day Christmas Day, Boxing Day, from 6pm on New Year's Eve and all day New Year's Day*	Surcharge of \$3.70 (incl. GST) all day Christmas Day, Boxing Day, from 6pm on New Year's Eve and all day New Year's Day*	

Source: VTD

* The existing late night surcharge or late night fee that applies on all other nights (midnight to 5am) does not apply during the holiday surcharge period

5.3.2. Electronic payments

Taxi fares can be paid by a variety of methods. Passengers can use cash, debit cards, credit cards (such as Visa and MasterCard) or third party charge cards (such as American Express and Diners Club). They can also obtain an electronic or paper-based taxi-specific payment instrument (a card or voucher) prior to commencing the trip and have the fare charged to a personal or business account.

Taxi consumers are increasingly turning to use of electronic payments for taxi fares. This is consistent with broader trends in the economy towards the use of cashless payments. The inquiry estimates that around 40 per cent of Victorian taxi fares are paid electronically, based on a number of sources.¹⁵

All electronic payments in Victorian taxis attract a total 'service fee' of at least 10 per cent of the total fare (the metered fare, any flagfall, booking fee, tolls and GST payable). GST is also payable on service fees, which brings the total surcharge to 11 per cent of the value of the fare, except when a consumer uses a Cabcharge-branded card.¹⁶

The surcharge on electronic payments substantially increases the total cost of taxi travel. For instance, a passenger paying with a credit card for a typical trip to Melbourne Airport from the CBD will pay around \$6.00 on top of the total fare.

¹⁵ Based on data from a large Melbourne taxi operator. This is also discussed in chapter 12

¹⁶ Cabcharge chooses to absorb the GST on these transactions, making its service fee 9.1 per cent

5.4. Industry profitability

Returns to firms in the taxi and hire car sector are very difficult to analyse. This is a function of the industry's fragmentation and ownership structures, notably:

- There are many small taxi operators and drivers
- Major networks are either privately held or operated in conjunction with many other businesses, which makes it difficult to analyse the profitability of network functions alone.

However, it is relatively easy to analyse returns to taxi licence holders. The inquiry has analysed these returns, as well as attempting an assessment of the returns to operators.

5.4.1. Taxi and hire car licence holders

Unlike most licensing systems, taxi licences in Victoria are not issued to all persons who can meet defined minimum standards. Taxi licences are limited in number, although these numbers have grown in an ad hoc manner over time.

The scarcity of taxi licences means that they attract a value. The value at which licences are transferred reflects the expected profits that can be earned from holding that licence. In turn, expected profits are determined by how profitable it is to either operate a taxi or hire car using that licence both now and into future (assuming the licence lasts for more than one year) or to lease or assign the licence to a taxi operator.

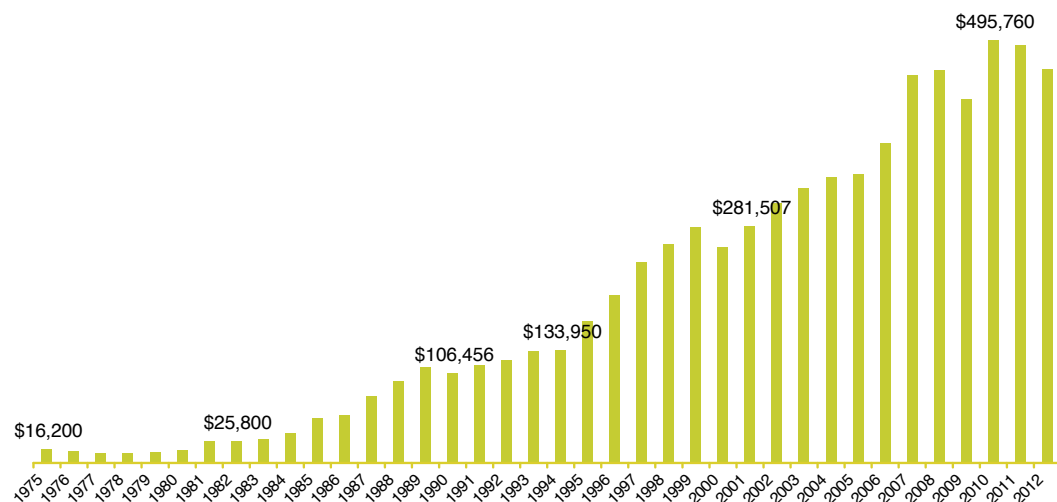
The income that can be earned by a licence holder consists of two elements: returns from operating or assigning the licence and gains in the value of the licence (known as a capital gain). As capital gains reflect changes in expectations about future profitability – expectations that, much like the share market, are highly variable – licence prices can change quite dramatically even where there is little obvious change in the profitability of operating a taxi in any one year.

Trends in taxi licence and assignment values are summarised below. The impact of these values on fares and performance is discussed in chapter 10. The effects are most dramatic on fares (as returns on licences are recovered from the fare box) and on other regulations that are required to sustain licence values, such as taxi zones.

Taxi licence values

Taxi licence values have been rising steadily since the mid-1980s. In 2011, the average monthly sale price of a metropolitan Melbourne licence was around \$490,000, as shown in Figure 5.19. In recent months, prices have dropped below this.

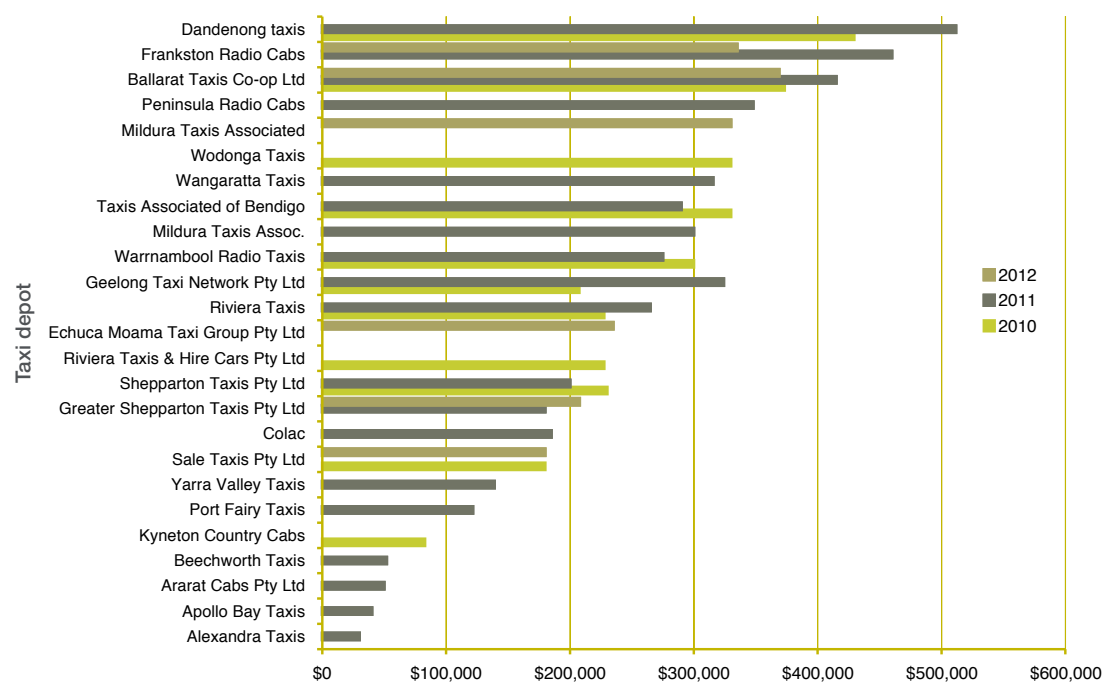
Figure 5.19 Melbourne metropolitan taxi licence values, 1981 to 2012



Source: VTD

Data for non-metropolitan licence sales is much less complete and there are also significantly fewer sales of these licences. Sale prices for the last three years are shown in Figure 5.20.

Figure 5.20 Country, urban and outer suburban taxi licence values, recent sale prices

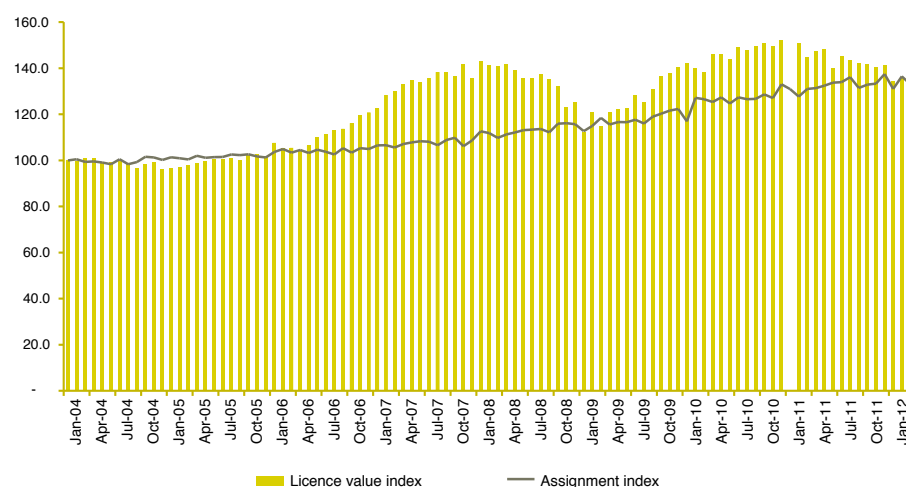


Source: VTD

Assignment values

Many taxi licences can be assigned to taxi operators. Assignment prices reflect the 'rental' value of holding a licence in that year (or number of years). As profits in the short term are much more certain than longer term influences affecting licence values, average assignment values are much less volatile than licence prices over the longer term (as shown in Figure 5.21). Volatility is also affected by the market for licences being much less liquid than that for assignments: data collected over the last seven years indicates that only around four to 10 licences per month are traded, while over 50 licences per month are assigned (or re-assigned). Nonetheless, the link between assignment values and licence values is evident, with nominal growth in both values being similar over the period 2004 to 2011.

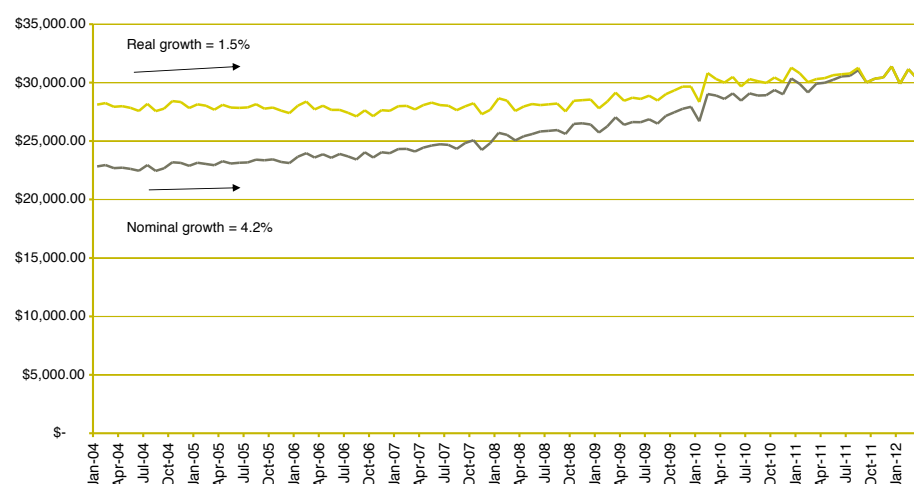
Figure 5.21 Melbourne metropolitan licence and assignment values, 2004 to 2012 (Indexed: 2004 = 100)



Source: VTD

Figure 5.22 shows that real (inflation adjusted) assignment returns have also been growing.

Figure 5.22 Annualised metropolitan taxi assignment prices, January 2004 to March 2012



Source: Inquiry analysis of VTD data

A further way to examine licence and assignment value data is to consider the yield on the licence (the annual return from assignment divided by the licence value). As Figure 5.23 shows, this yield has varied between six and eight per cent over the last seven years.

Figure 5.23 Assignment yield on metropolitan Melbourne taxi licence, 2004 to 2011



Source: VTD

Figure 5.24 records the total return from owning a metropolitan Melbourne conventional taxi licence since 1975. Over this period, total returns from taxi licence ownership have been exceptional. Assuming that assignment returns or the returns from operating the licence directly have been in the vicinity of six per cent for an extended period, total returns have been in the order of 10 to 16 per cent per annum. Holding a licence for longer periods (more than 20 years) has proven more lucrative than holding one for shorter periods.

The returns shown in Figure 5.24 may be compared with the return from holding other speculative assets, such as shares. For example, over the 25 years between January 1986 to December 2010, taxi licences have offered a much higher and less variable return than that offered by Australian shares or property. On a pre-tax basis, shares have returned 10.8 per cent per annum while residential property has returned 11.6 per cent per annum, and (particularly in the case of shares) has delivered these returns with much greater volatility.¹⁷

Hire car licence values

Since the implementation of the 2002 taxi and hire car reforms by the Victorian Government, it has been relatively easy to purchase a Melbourne hire car licence. Licences are now issued 'as of right' in the metropolitan area and an unrestricted number of licences have been available at a price set by the Government. The Government initially set this price at \$66,000, then lowered it following an ESC review to \$60,000 in 2005. The 2002 reforms and lower hire car licence fees have led to a doubling in the number of Melbourne licences. Licences have also been trading on the secondary market at slightly less than the cost of a new licence.

Figure 5.25 shows the impact of the 2002 reforms, with the value of traded licences steady around the Government's set price. Transfers for country licences are infrequent, and, as discussed in chapter 14, the set price methodology has not been as effective in allowing new entry in these areas. A public interest test still applies in relation to the issue of new country hire car licences.

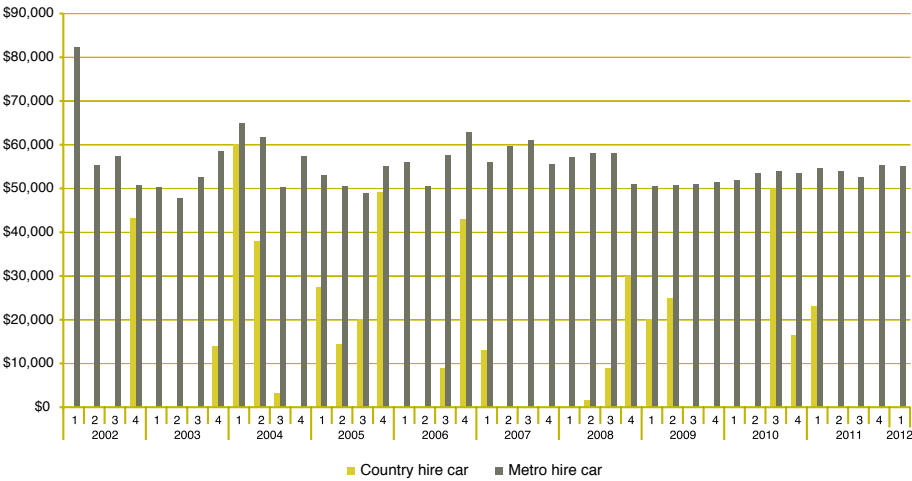
Figure 5.24 Annual return from holding a metropolitan Melbourne taxi licence (capital gain plus assignment returns)



Source: Inquiry analysis of data from VTD, KPMG (1999) and Foletta Inquiry (1986)

¹⁷ Russell Investments / ASX, *Long term investing report: Comparing 10, 20 and 25 year performance of various assets to December 2010*, www.russell.com/AU/_pdfs/market-reports/asx/ASX_Report_2011.pdf, accessed April 2012

Figure 5.25 Metropolitan and country hire car transfer prices, 2002 to 2012



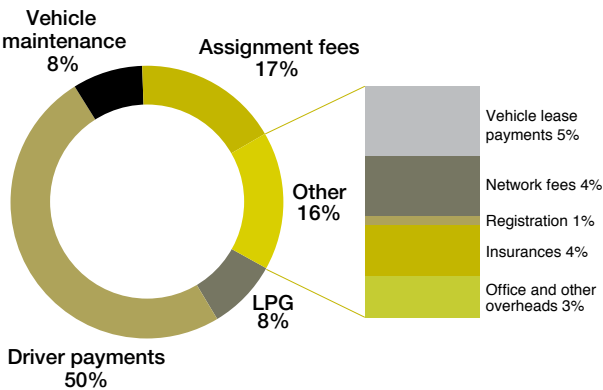
Source: VTD

5.4.2. Taxi operator utilisation and profitability

Profitability and costs

No two taxi operators are alike in terms of their business structure, revenues and costs. The broad structure of costs for taxi operators is shown in Figure 5.26. This structure is based on data supplied to the inquiry from operators in metropolitan Melbourne and from previous ESC inquiries into fares. In country areas, this diagram will look quite different and vary from market-to-market. This figure assumes that revenue from the taxi is split equally with the driver.

Figure 5.26 Illustrative structure of annual taxi operator costs, metropolitan Melbourne conventional taxi



Source: Inquiry analysis of NSP and operator data

The inquiry understands that taxi operators operate in a highly competitive market. Margins for taxi operators tend to be low, with significant turnover of operators.

There are three reasons why margins are low and there is significant turnover:

- Barriers to entry are low, operator accreditation is a relatively low threshold and the total capital costs required to enter the industry are not substantial (as licences may be obtained through assignment).
- Fares are regulated, which (at least in principle) limits achievable returns to that of the median or 'average' taxi. If an operator does not do as well as the average, then losses are made (or should be, if regulation is effective).
- In the system of taxi licensing in Melbourne and outer suburban areas, where most licences are leased, lease or assignment payments are a cost to operators. However, they are not strictly a resource cost but a residual profit item: assignments represent what is left after resource costs (payments to drivers, vehicles and so on) are taken away from revenue.

The implication of this is that rises in revenue or falls in cost that accrue to all operators (such as a fall in LPG prices) will result in higher assignment fees. Greater profits in the short term simply lead to a willingness to bid these profits away as higher assignment fees in the medium- to long-term. This means it is very hard for operators to be successful in the longer term. To be successful, operators must continually do better than average and those that cannot are more likely to exit the industry.

Operator utilisation

Information provided to the inquiry by taxi operators indicates that there are a number of different performance benchmarks used within the industry to measure financial performance. In part, these differences appear to reflect operators' different arrangements with taxi drivers.

Key indicators appear to be:

- Occupancy – the time the taxi is occupied with a paying passenger versus the time it is unoccupied
- ‘Dead running’ – the kilometres a taxi vehicle runs without a paying passenger
- Number of shifts filled, per car per week.

These figures are crucial to determining the revenue earned and cost incurred by the taxi.

Utilisation (occupancy)

Few operators appear to keep occupancy data as a matter of course, although it is clearly important information for operators who enter into revenue-sharing agreements with their drivers. Higher occupancy translates directly into greater revenue from the ‘fare box’ and therefore higher profits for an operator.¹⁸

One reason this data is not more widely collected appears to be that NSPs do not routinely provide taxi operators with this kind of data.

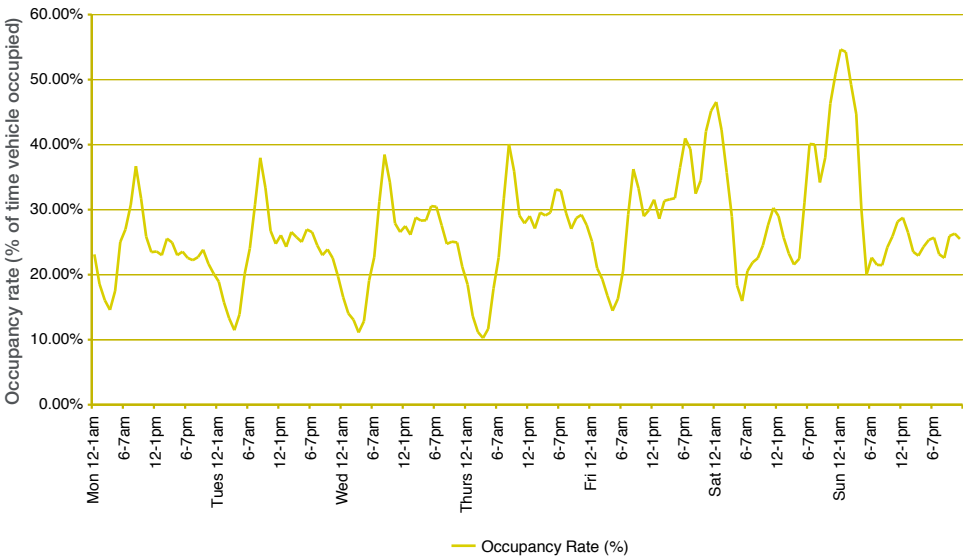
Information received from NSPs has provided useful insight into average vehicle occupancy at different times of the day and week. Data is provided in Figures 5.27 and 5.28 and Table 5.7.

Table 5.7 illustrates that occupancy rates average 28 per cent across the week (that is, on average, 28 per cent of the time vehicles available are occupied, and 72 per cent are available but unoccupied).

Figure 5.27 illustrates that there are substantial changes in occupancy rates across the week, with rates on Friday and Saturday night reaching peaks of over 40 per cent.

Figure 5.28 further illustrates how occupancy compares to vehicles on-road. It shows that the better occupancy performance on Friday and Saturday occurs with only relatively minor changes in vehicle availability. This suggests that the fleet is significantly under-utilised at other times of the week.

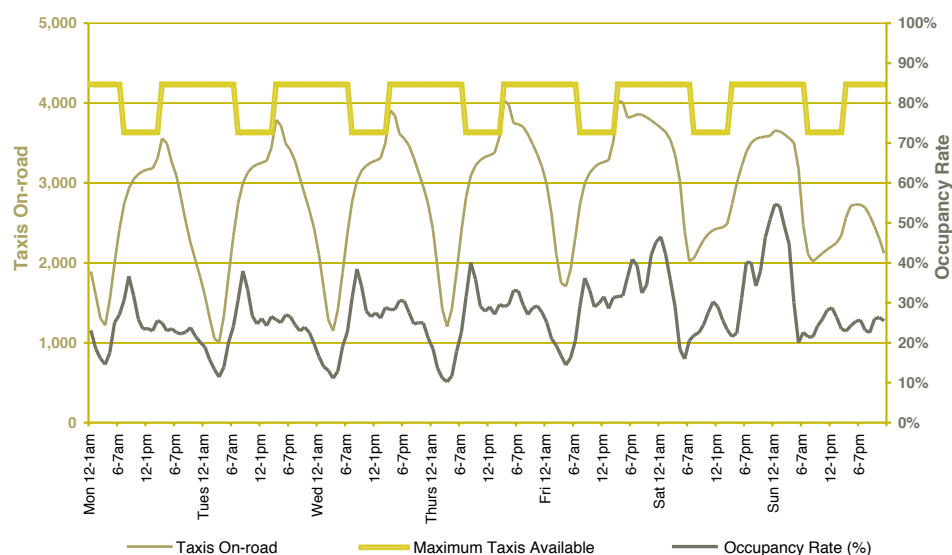
Figure 5.27 Average occupancy by hour of week, Melbourne metropolitan area, 2011



Source: Melbourne metropolitan NSP data, VTD

¹⁸ Noting that, as discussed above, industry-wide changes in utilisation are captured in assignment prices, at least in the medium term

Figure 5.28 Occupancy and vehicle on-road rate by hour of week, Melbourne metropolitan area, 2011



Source: Metropolitan NSP data, VTD

Table 5.7 Average occupancy rates by day and hour of week, Melbourne metropolitan area, 2011

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
12 – 1am	23%	19%	17%	18%	25%	47%	55%
1 – 2am	19%	16%	14%	14%	21%	42%	54%
2 – 3am	16%	13%	13%	11%	19%	36%	49%
3 – 4am	15%	11%	11%	10%	17%	29%	45%
4 – 5am	18%	14%	13%	12%	14%	18%	30%
5 – 6am	25%	20%	19%	18%	16%	16%	20%
6 – 7am	27%	24%	23%	23%	21%	21%	23%
7 – 8am	31%	31%	31%	32%	29%	22%	22%
8 – 9am	37%	38%	38%	40%	36%	23%	21%
9 – 10am	32%	33%	34%	36%	33%	24%	24%
10 – 11am	26%	27%	28%	29%	29%	28%	26%
11am – 12pm	23%	25%	27%	28%	30%	30%	28%
12 – 1pm	24%	26%	27%	29%	32%	29%	29%
1 – 2pm	23%	24%	26%	27%	29%	26%	26%
2 – 3pm	26%	27%	29%	30%	31%	23%	24%
3 – 4pm	25%	26%	28%	29%	32%	22%	23%
4 – 5pm	23%	25%	28%	30%	32%	22%	24%
5 – 6pm	24%	27%	31%	33%	36%	31%	25%
6 – 7pm	23%	27%	30%	33%	41%	40%	26%
7 – 8pm	22%	25%	28%	29%	39%	40%	23%
8 – 9pm	23%	23%	25%	27%	32%	34%	23%
9 – 10pm	24%	24%	25%	29%	35%	38%	26%
10 – 11pm	22%	23%	25%	29%	42%	46%	26%
11pm – 12am	20%	20%	21%	28%	45%	51%	25%

Average metropolitan taxi occupancy rate for 2011 = 28%

Source: Metropolitan NSP data, VTD

The inquiry's view is that, overall, these data show that there is significant scope to improve the current performance of the Melbourne fleet by increasing the occupancy rate.

Utilisation (kilometres)

A second key measure relates to the number of kilometres that are driven by the vehicle with a paying passenger. This is particularly important because LPG costs are a significant proportion of costs for the operator (around 16 per cent once driver payments are removed) and vary with the number of kilometres driven.

The inquiry has received some evidence from operators on their utilisation rates. These data suggest that an efficient operation can produce rates of between 50 per cent to 55 per cent. These rates will depend on the location of the operator; in less dense areas, where dead running costs are greater, figures often dip below 50 per cent. Operators working closer to the CBD can achieve higher rates.

Number of shifts filled

A number of submissions from operators to the inquiry note the importance of filling shifts. Operators incur a large number of fixed costs – that is, costs that do not vary with the number of trips or passenger kilometres operated by their vehicles. These costs include licence assignment fees, NSP fees, vehicle expenses, insurance and registration fees. Major variable costs include driver payments and LPG. In this context, if shifts are not filled the operator saves on driver payments and LPG but makes no contribution to the recovery of the fixed costs of the business.

Three operators (all of whom run more than 20 taxis) have provided data to the inquiry that indicates shift coverage over the last 12 months is considerably lower than it has been in earlier periods:

- One operator's data indicates a fall in shift coverage from 90 per cent of shifts to 70 per cent between 2007 and 2011 (using comparative data from one week in December).
- Comparative data between October 2010 and November 2011 provided by another large operator indicates that shift coverage has fallen from 79 per cent (11 out of 14 shifts) to 57 per cent (8 out of 14 shifts).

All operators indicated to the inquiry that the release of 530 new taxi licences by the Victorian Government through 2010 and 2011 was the reason for the fall in shift coverage. The inquiry also understands that reduced numbers of international students coming to Victoria has reduced the driver pool significantly. This is commented on further in chapter 13.

5.5. The performance of booking networks

Sections 5.1 and 5.2.3 comment on two aspects of booking network performance: consumer complaints and waiting times for pre-booked vehicles. Two performance issues were noted: the failure of booking companies to ensure taxis arrive on time and the failure of booking companies to handle complaints properly.

A taxi that fails to pick up a passenger elicits some of the strongest negative customer reactions on service performance. Two further measures that are of relevance to this are:

- **The number of jobs not covered** – that is, where a booking is made but drivers reject it for some reason
- **'Meter flashes'** – where a job is accepted and the meter switched on even though there are no passengers on board. The meter is then rapidly switched off again. This may happen for a number of reasons, but it may be due to the driver assessing the expected fare of the job but then rejecting it as being too short (as destinations only become known once the job is accepted). It may also be because the driver cannot find the passenger (for example, the passenger may have not been at the agreed location) but rather than calling this back to the network, a meter flash occurs and the driver can then identify themselves as vacant.

These numbers were measured across the metropolitan Melbourne NSPs and are shown in Table 5.8.

Table 5.8 Bookings placed and completed, Melbourne, 2011

Total NSP bookings placed	10,732,000	
Total NSP bookings completed	8,033,000	= 30% of total trips
Total NSP bookings not covered	2,699,000	= 25% of total NSP bookings
Total NSP booking "meter flashes"	454,000	= 17% of NSP bookings not covered
		= 4% of total NSP bookings placed

Source: Inquiry analysis of metropolitan NSP data

The inquiry recognises that there may be a number of reasons why bookings are not covered and they are not all within the networks' control. That said, the inquiry considers that networks are not managing drivers effectively or – where the consumer is at fault – managing consumer behaviour to limit the number of instances where drivers accept a booking but there is no fare. As noted in section 5.1, this is giving rise to considerable consumer detriment. A number of operators also raised this issue with the inquiry, noting that they also experience significant detriment from false bookings.

It is important to understand that booking networks have two sets of customers. Taxi users call booking companies to arrange a taxi service. Taxi operators purchase dispatch services from the booking network. The networks receive all of their revenue from taxi operators, to whom they charge affiliation fees. The inquiry has received a number of submissions from operators arguing that:

- Prices for network services have increased regardless of service performance, and regardless of any economies of scale captured by networks that should be driving marginal and average costs down.
- Jobs delivered by the network per vehicle seem to bear no relationship to fees charged.

Both of these claims appear to have some basis. These claims are further analysed in chapter 11.

5.6. Driver pay and conditions

Generally, taxi drivers work under conditions where they enjoy fewer protections and entitlements than most other workers. The remuneration and working conditions of drivers are examined in detail in chapter 13.

The inquiry received data on driver remuneration from a number of different sources. None could be described as representative of all drivers. While the disparate nature of taxi operators and drivers makes it difficult to assess driver earnings with certainty, there is consistent data and evidence indicating that drivers' current average earnings across a week are between \$12 and \$14 per hour (exclusive of GST, but not tips).

The inquiry received detailed data for the period 2010-2012 from a Melbourne-based operator operating in excess of 20 vehicles, including conventional taxis, peak service taxis and WATs. Drivers were engaged on a revenue-sharing basis. While considerable care must be taken in extrapolating the results of this data across the rest of Melbourne, checks on this data against other available sources (including NSP data and other less detailed operator and driver data) reveal a degree of consistency.¹⁹

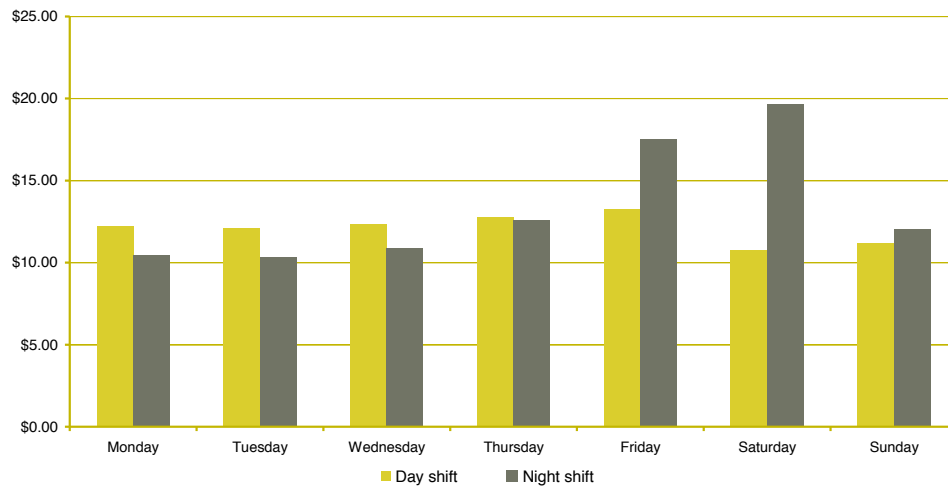
Analysis of this operator's data, which is highlighted in Figures 5.29 and 5.30, suggests the following:

- Drivers' earnings from conventional and peak service taxis are on average just over \$13 per hour over the week.²⁰
- Night shifts tend to deliver lower earnings early in the week (\$10 to \$11 per hour) but higher earnings on weekends (\$17 to \$20 per hour). Across the week, night shifts deliver higher earnings as long as Friday and Saturday nights are worked.
- Driver earnings (and therefore operator earnings) are seasonal, with higher earnings in summer than in winter.

¹⁹ Implied driver payments based on an average, non-peak Melbourne taxi were \$69,100 (excluding GST). Dividing this by an average of 50 weeks a year, 10 shifts a week and 11 hour shifts gives an hourly rate of \$12.56 per hour

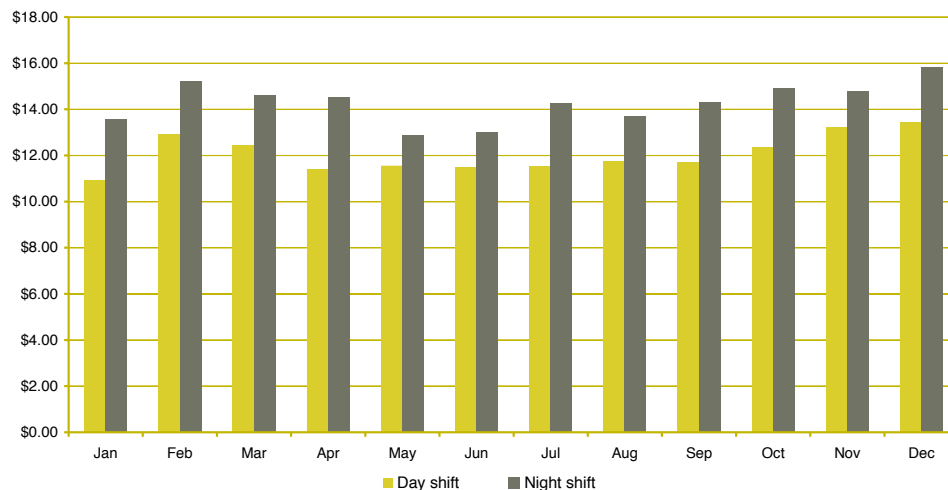
²⁰ Earnings reported for WAT drivers were higher

Figure 5.29 Estimated hourly driver earnings by day of week, 2011



Source: Data from Melbourne-based operator

Figure 5.30 Estimated hourly driver earnings by month, 2011



Source: Data from Melbourne-based operator

The weekly average rate of just over \$13 per hour is around one dollar per hour higher than the estimate of \$12 per hour²¹ produced by the ESC four years ago – prior to the 10.6 per cent fare rise.

From these earnings, drivers must make allowances for GST and income tax, holiday pay, superannuation and insurance. Thirteen dollars per hour equates to under \$40,000 per annum, assuming a 60 hour week (5 x 12 hour shifts) and working 48 weeks per year. Driver earnings therefore remain well below Australian average yearly earnings of around \$70,000 for private employees.

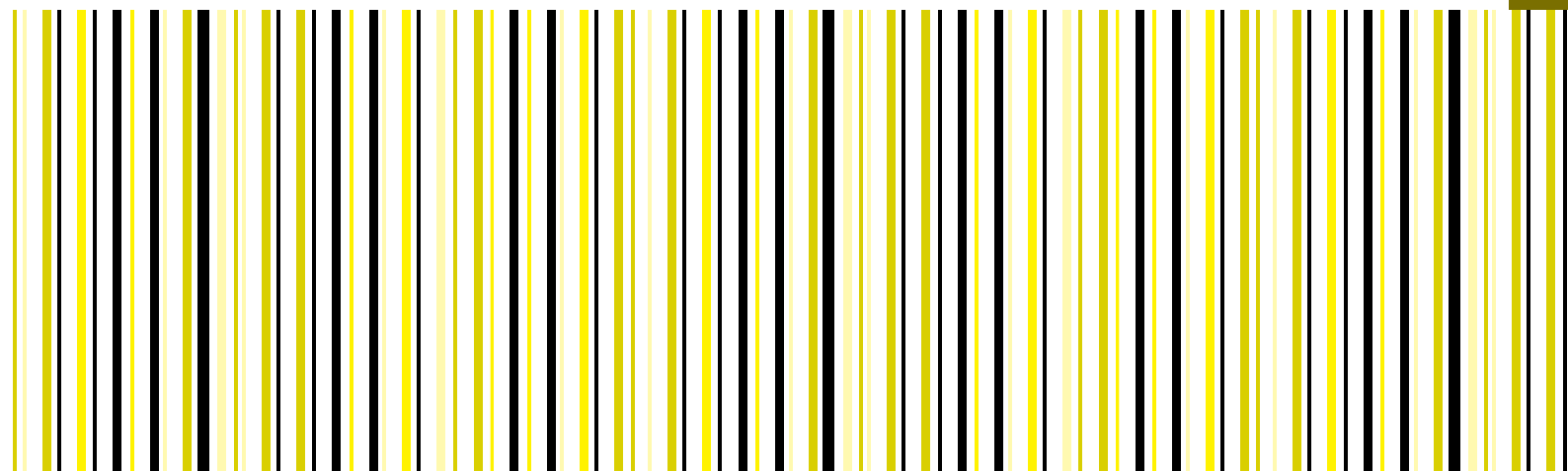
Just over \$13 per hour is also well below Australia's basic minimum wage for full-time employees of \$15.51 per hour.

Poor driver remuneration contributes to poor service quality outcomes for consumers. As further discussed in chapter 13, poor remuneration contributes to high driver turnover, leading to a regular loss of experienced and knowledgeable drivers. Further, and as discussed in chapter 22, poorly paid drivers have little at stake in the industry. This creates enforcement difficulties and, for some drivers, a culture of non-compliance with regulatory and tax requirements.

²¹ The ESC actually reports a figure of \$13.20 per hour. It is understood that this figure is inclusive of GST, so the driver payment component is only 10/11 of that, or \$12

Part C

Regulating the industry



Chapter 6.

6. History of regulation and reform

Key messages

- Many elements and features of the current regulatory regime for taxis and hire cars in Victoria extend back more than a century, contributing to a regulatory environment that is complex, piecemeal and outdated.
- While some reforms have been undertaken, the industry's basic operating model has not changed significantly since the 1980s and some structural and operational aspects remain unchanged since the 1920s and 1930s.
- Since the 1980s, a number of inquiries and reviews have recommended major reform of the taxi industry designed to improve its performance, including removing restrictions on licence numbers. Recommendations proposing deregulation of the industry have largely been ignored.
- Reforms undertaken by successive Victorian governments in the last 20 years have resulted in some improvements to the performance of the taxi industry and lifted standards in some areas, most notably safety. But the failure to deliver fundamental regulation and structural reform of the industry has left many longstanding problems unaddressed.
- Applying a well-designed regulatory regime to taxis and hire cars in Victoria has the potential to deliver significant consumer benefits without intruding unnecessarily into the market or unreasonably limiting competition.

Many core elements of Victoria's taxi and hire car industry extend back to the 1850s and key features of the current regulatory regime and industry structure were established as long ago as the 1920s and 1930s.

In recent decades, successive Victorian Governments have made a number of attempts at reforming the industry, including making changes to the regulatory framework, issuing more licences and introducing licensing and accreditation schemes. This chapter summarises the evolution of the current regulatory regime, analyses recent reform efforts and clarifies the objectives of regulating the industry.

6.1. Evolution of the current regulatory regime¹

6.1.1. Laying down the 'building blocks': 1850s to 1980s

The origins of the current regulatory regime in Victoria date back to 1850 when the Melbourne City Council (MCC) introduced laws to regulate horse-drawn 'hackney carriages' under the *Licensed Carriages Melbourne Corporation (Melbourne) Act 1850*. This involved the licensing of individuals to provide taxi services and to 'maintain the order of owners, drivers and conductors, and the comfort and safety of passengers'.

Following the introduction of the motor car into Australia in the early 20th century, wealthy people were approached at their homes and offered rides to destinations at predetermined prices. This activity became known as a 'private hire car' service. The term 'taxi-cab' also came into use around this time.

As motorised cars were not covered by the definition of a 'carriage' in existing by-laws, the Victorian Parliament passed the *Motor Vehicle Act 1909*, which allowed the MCC to regulate motorised taxi-cabs (but excluded private hire cars). Hire cars were only brought under the regulatory control of the MCC much later in 1939.

¹ Material in this section is based on Department of Transport (2007), *History of taxi and hire car regulation in Victoria*, internal document provided to the inquiry by the Department of Transport

The Great Depression initiated a chain of events for regulation of the taxi industry that still influences contemporary legislation. Up until this time, entry into the taxi industry was 'as of right', with no restrictions on who could operate a taxi. The scarcity of employment during the 1920s and 1930s saw many owners of vehicles enter into the taxi market to earn a living.

This created significant cost pressures for taxi companies, due to increased competition from the influx of new owner-drivers. Owner-drivers could work longer hours and did not have to pay hourly labour hire costs, while taxi companies had to pay wages to employee drivers. To contain costs and remain competitive, two taxi operators – Yellow Cabs and Red and Checker Cabs – devised the first type of bailment agreement, where cab drivers leased the vehicle from their owners and split the fare revenue. Changes were made to the MCC by-laws to allow these agreements to be legally enforceable.

At this time, the Drivers' Union and the Yellow Cab Company also lobbied the MCC to restrict licences and remove the 'as of right' policy to obtain a taxi licence, with the Yellow Cab Company arguing that there were sufficient numbers of vehicles to serve the Melbourne market. Subsequently, the law was amended to allow the MCC to limit the number of licences.

The influx of owner-drivers during the Great Depression also resulted in greater price competition, with many drivers attempting to attract business by undercutting fares. Further lobbying by the Drivers' Union and the taxi-cab companies led to the introduction of minimum fares during this period.

With Victoria expanding rapidly, the need for a statewide regulatory body for licensing and regulating taxis and hire cars became apparent. In 1932, the Transport Regulation Board (TRB) was introduced through the *Transport Regulation Act 1932*. The TRB recommended a number of changes to the regulatory environment, including the introduction of a licence and permit system for all 'commercial road motor vehicles' and the first set of prescriptive regulations relating to 'Commercial Passenger Vehicles' appeared in 1934. The TRB ultimately assumed full regulatory control of taxi and hire cars in Victoria in 1952.

Licences issued by the MCC before 1952 were transferable but those issued by the Board were not. This created a situation where a large proportion of licences could not be transferred. In 1965, the Victorian Government allowed licences to be transferred provided the licence owner had a legitimate reason to sell and leave the industry. This was seen as providing 'a form of superannuation or reward' for a licence owner's years of service to the public.

Amendments to the *Road Transport Act 1965* permitted any holder of a licence to transfer the licence, as long as the Board was satisfied the holder of the licence was a 'suitable person'. This allowed licence holders to transfer a licence to another party without having to return the licence to the Board. All taxi-cab and hire car licences were now fully transferable.

In the late 1960s, in response to inadequate services in Melbourne's outer suburbs, the TRB divided the city into a number of geographic zones, with existing hire car owners in each zone given composite rights to operate as a taxi-cab in that zone. Zoning meant vehicles had to return to their respective zone before accepting another hiring. From 1970, hire cars zoned to operate in suburban zones were designated as suburban taxi-cabs. This reclassified their hire car licences to taxi licences. In 1979, the suburban and metropolitan zones were combined except for the outer zones of Frankston and Dandenong.

In the early 1980s, licences were allowed to be assigned and operated by a third party under circumstances of illness, infirmity or death. One aim of this measure was to provide the licence owner with an ongoing income after retirement, without the need to sell the asset.

These 'building blocks', laid down over 100 years, continue to provide the foundation for the control and regulation of Victoria's taxi and hire car industry today.

6.1.2. Leaving the basic industry model unchanged: 1980s to the present

By the early 1980s, transport regulation was being undertaken by a plethora of government departments and authorities pursuant to range of regulations. The Government responded to this fragmentation by introducing the *Transport Act 1983*. The Act enabled the repeal of around 100 different Acts, dissolved the TRB, created the Road Traffic Authority (RTA) to manage taxi licences and regulation, and established the Road Transport Licensing Tribunal (RTLTL) to hear objections to applications for commercial passenger vehicle licences.

In 1989, the RTA was merged into VicRoads and in 1993 the RTLTL was abolished and its responsibilities handed to VicRoads. VicRoads' regulatory role ceased in 1994 when the Secretary to the Department of Transport (DOT) replaced it as the 'licensing authority' under the regulations and the Victorian Taxi Directorate (VTD) was established to assist the Secretary with administering taxis and hire cars.

While there have been calls for substantial reform of the industry over the last two decades, regulatory changes have been relatively restrained, leaving the long-established basic industry model largely intact. The most significant of these changes include the staged introduction of 600 peak service taxi licences from 2003 (with the program completed in 2009), a requirement for the Minister for Transport to seek the advice of the Essential Services Commission prior to changing the level of scheduled taxi fares in Victoria and new powers given to the regulator to issue a licence that cannot be transferred or assigned.

In 2006, a securities exchange for managing metropolitan taxi licences under the auspices of the Bendigo Stock Exchange (BSX) was introduced. This aimed for greater transparency in the transfer and assignment of licences. However, on 21 March 2011, the DOT announced that it would not extend its agreement with BSX services.²

Also in 2006, new laws were introduced to remove legal recognition of the VTD and establish the Director of Public Transport as the licensing authority. The VTD remained an administrative unit within the Public Transport Division of the DOT, administering the functions delegated to its employees by the Director of Public Transport. This change aimed to incorporate the regulation of taxi services within broader public transport regulation.

In 2007, a new accreditation scheme for drivers of commercial passenger vehicles (buses, taxis and hire cars) was introduced. At the end of the same year, a taxi industry accreditation regime for licence holders, operators, and network service providers (formerly known as taxi depots) was established. The intent of the industry accreditation scheme was to extend the 'chain of responsibility' for the provision of taxi services beyond the driver to other industry participants. In particular, these reforms reflected concerns that NSPs, licence owners and taxi operators were able to avoid responsibility for service performance.

In 2008 and 2009, legislation for driver and industry standards relating to training and safety was introduced.

Following the introduction of Victoria's new principal transport statute, the *Transport Integration Act 2010*, the *Transport Act 1983* was amended and renamed the *Transport (Compliance and Miscellaneous) Act 1983*.

It is evident when examining the evolution of the taxi and hire car regulatory regime that many of the principles and drafting in current legislation reflect those in previous regulatory regimes. For example, current licensing provisions are very similar to those contained in the *Transport Regulation Act 1932*. Some principles even date back to the old hackney carriage regulations prior to 1900, such as the 'show cause' provisions now reflected in s157(3) of the *Transport (Compliance and Miscellaneous) Act 1983*.

6.2. Recent reform attempts

Over the last 25 years, successive Victorian Governments have undertaken attempts at industry reform in response to various reviews and inquiries, and to meet Victoria's obligations under National Competition Policy agreements.

6.2.1. Inquiries and reviews

Foletta Inquiry (1986)

The Foletta Inquiry was established by the Victorian Government in 1986 following a period of public complaints about poor quality taxi services. Specifically, the Government directed the inquiry to examine whether further taxi licences should be issued in Melbourne, the conditions and restrictions that should be placed on the issue of further licences and whether any changes were necessary to industry and regulatory practices to improve services and encourage the better use of vehicles.

The inquiry, headed by Bruce Foletta, identified a number of problems with the industry:

- Poor remuneration of drivers
- A high rate of driver turnover and difficulty in attracting and retaining drivers
- Unequal bargaining power between drivers and operators
- High taxi licence values
- Insufficient numbers of taxis to meet demand during peak times
- Growing risks to drivers' safety from violent passengers.

Acknowledging widespread public complaints about taxi services, Foletta made the observation that:

“The role of regulation is not to protect the interest of existing licence holders or to maintain the market value of licences. It is to ensure that the public has access to minimum quality and level of service at a reasonable cost.”³

² Further discussion of licence transfer is set out in chapter 10

³ Foletta, Bruce (March 1986), *Report of the Taxi Inquiry – Melbourne and Metropolitan area*, Ministry of Transport, Melbourne, p.31

The inquiry recommended removing the controls on entry to the taxi industry, proposing:

“... a significant change in regulatory policy to a system of conditioned open entry, phased in over five years with decisions as to whether further licences are required being made by applicants with a knowledge of the industry and the demand for service rather than by regulators’ inquiries.”⁴

Deregulation would have meant significant changes to the taxi and hire car industry, with the regulating authority having “an audit role with a strong emphasis on safety and driver competence and ... the future direction for the taxi industry [moving] towards self-regulation”.⁵

Foletta proposed the immediate release of 300 new taxi licences and 100 licences in each subsequent year. These licences were to be limited to one per person and were not to be transferred or assigned for five years. Proposals were made to amalgamate the Frankston and Dandenong zones with the metropolitan zone.

Following the Foletta Inquiry, the RTA issued 150 new metropolitan taxi licences and 10 outer suburban licences. The Frankston and Dandenong zones were merged to create a separate outer suburban zone (rather than merging them with the metropolitan zones) and the limitations on assigning licences to a third party were removed from 1987.

NCP review (1995 to 2001)

In April 1995, the Commonwealth Government and State and Territory Governments signed a series of National Competition Policy (NCP) agreements designed to develop a national approach to improving competitive markets in Australia. One of these agreements, the Competition Principles Agreement, established a process for governments to review and reform legislation that restricted competition by 2000.

A number of reports on taxi regulation were produced in response to the NCP:

- In 1999, the Productivity Commission paper, *Regulation of the Taxi Industry*, recommended the deregulation of licence number restrictions while retaining quality, safety and possibly maximum fare requirements in legislation. The paper outlined a range of approaches to making the transition to deregulation, including dealing with the issue of compensating current licence holders.⁶

- In 2000, the National Competition Council staff discussion paper, *Reforming the Taxi Industry in Australia*, recommended partial deregulation by removing restrictions on licence numbers. The paper also examined the issue of compensation and considered options that ranged from no compensation to hardship payments to full market compensation.⁷
- Each State and Territory government carried out a review of taxi regulation that examined whether any public benefit resulted from continuing to restrict entry to taxi markets.

KPMG review

In 1999, the Victorian Government commissioned consulting firm KPMG to examine the case for reform of legislative restrictions on competition in the small commercial passenger vehicle legislation, which covered taxis, hire cars and other point-to-point transport. The review considered the objectives of the relevant legislation covering small commercial passenger vehicles, the restrictions on competition contained in the legislation, the benefits and costs of these restrictions and alternative, more efficient ways to achieve the objectives.

The review found ‘no credible case’ that entry restrictions in the taxi market addressed a market failure or were in the public interest, noting that:

“...experience indicates that historically economic regulation of taxi-cabs and hire cars was driven by a desire to restrict competition in the interests of incumbent operators and drivers, rather than as a response to public concerns about safety or other public interest matters.”⁸

KPMG found that “the public interest restrictions on entry and many of the intermodal restrictions do not provide net benefits to the community”,⁹ added to the average cost of fares and did not ensure good service. However, the review identified strong evidence that regulation covering the quality and safety of services was necessary to address market failure. Accordingly, KPMG recommended removing entry restrictions on all forms of small commercial passenger vehicle, while maintaining quality controls.

In relation to the taxi industry, KPMG recommended the removal of entry restrictions and a buyback of licences, with the costs recovered through an annual licence fee. The review also recommended allowing taxi fares to be set by each taxi depot (with fares assessed for ‘reasonableness’ by an independent government body) and the removal of barriers to taxis and similar vehicles undertaking route services in some circumstances.

4 Ibid., p.iii

5 Ibid., p.iii

6 Productivity Commission (1999), *Regulation of the Taxi Industry*, Ausinfo, Canberra

7 National Competition Council (2000), *Reforming the Taxi Industry in Australia*, Staff Discussion Paper, NCC, Canberra

8 KPMG Consulting (July 1999), *National Competition Policy Review of Taxi-cab and Small Commercial Passenger Vehicle*, Melbourne, p.72

9 Ibid., p.6

McQuillen report

In February 2001, the Chairman of the Victorian Government Steering Committee that had overseen the KPMG review (Mr Rob McQuillen) recommended against deregulating entry into the taxi market.¹⁰

The McQuillen Report identified many of the same problems as the Foletta Inquiry and the KPMG review, including high turnover of drivers, insufficient taxis during peak periods and service deficiencies in Melbourne's outer suburbs. However, McQuillen rejected the KPMG review's conclusions, arguing that deregulation would result in a decline in the quality and safety of taxi services. Instead, he focused on regulatory measures designed to support a progressive return to 'owner driver' operations within the industry, including:

- Phasing out investor ownership of taxi licences over two years
- Restricting the assignment of taxi licences by allowing only career drivers to assign a licence
- Capping the assignment rate at a cost to be determined annually by an independent government body
- Releasing 500 to 600 new owner driver licences limited to peak period operations.

6.2.2. Government-led reforms

The 'Kennett' reforms (1993 to 1994)

In 1993, the Crime Prevention Committee of the Victorian Parliament recommended the creation of a taxi industry regulator, primarily to address concerns about the safety of taxi drivers and passengers.¹¹ As noted earlier in this chapter, the VTD was established in 1994 as an administrative unit within the DOT, replacing VicRoads as the industry regulator.

The Victorian Government led at the time by Premier Jeff Kennett introduced several further measures designed to improve the taxi industry:

- Requiring all taxis to be painted a uniform yellow colour
- Requiring all taxi drivers to wear uniforms
- Criminal checks and better training for drivers
- Requiring all cabs to have a working air conditioner
- Age limits for vehicles used as taxis.

While there is general agreement within the industry that these reforms improved public perceptions of the industry and raised standards temporarily, the reforms are widely perceived as not having a lasting impact. In 2007, former Premier Jeff Kennett appeared to acknowledge this, with the *Herald Sun* newspaper reporting him as being 'saddened' by the current state of the industry and observing that "ownership has become more controlled, often by big business".¹²

Bracks Government's 17 point plan (2002 to 2008)

In 2002, the Victorian Government led at the time by Premier Steve Bracks released a '17 point plan' to reform the taxi and hire car industry in response to the NCP review and the McQuillen report. Implemented over several years, the plan included:

- A late night 20 per cent tariff on fares in Melbourne, paid directly to drivers to encourage them to work during the late night and early morning
- A new power for the industry regulator to issue a licence with conditions prohibiting the transfer or assignment of the licence
- A new taxi industry accreditation scheme (progressively implemented since late 2007), including operator, NSP and licence holder accreditation requirements and business and service standards
- A new accreditation scheme for drivers, including a series of upgrades to driver training
- A review of country taxi services, which led to a number of actions to improve the viability of taxi services in regional areas
- A new Taxi Industry Safety Taskforce
- A new scheme requiring the trade and assignment of taxi licences to be reported on the Bendigo Stock Exchange (discontinued in early 2011)
- Independent assessment of the need for taxi fare increases by the Essential Services Commission
- A taxi services customer charter, setting out the rights and obligations of passengers and drivers
- Easing of entry restrictions to the Melbourne hire car industry by removing the 'public interest test' restriction for issuing a licence.

The Government issued 600 new 'peak service', non-assignable taxi licences to career taxi drivers at a low cost. Resources to the VTD were also significantly increased to support a significant step-up in enforcement activities.

¹⁰ McQuillen, Rob PSM (2001), *National Competition Policy: Review of Taxi-cab and Small Commercial Passenger Vehicle Legislation – Summary Report, Conclusions and Recommendations*, Melbourne

¹¹ Victorian Parliament Crime Prevention Committee (1993), *Developing a Safer Taxi Industry*, Parliament of Victoria, Melbourne

¹² Herald Sun (22 February 2007), 'Jeff laments rank disappointments', www.heraldsun.com.au/news/victoria/jeff-laments-rank-disappointments/storye6frf7kx-1111113034790, accessed 7 December 2011

The National Competition Council (NCC) concluded that, in proposing the 17 point plan, Victoria was meeting its National Competition Policy obligations. In its 2003 review of progress in implementing the Competition Principles Agreement, the NCC stated:

*The Victorian Government implemented measures that are consistent with the four broad principles for staged reform in the taxi and hire car industry. It began a process of annually introducing new licences over 12 years and publicly indicated its commitment to these annual increases. It also committed to review the impact of these increases and to adjust the rate of annual increase if the supply/demand imbalance does not improve.*¹³

However, the Council made the observation in 2004 that this positive assessment was “relatively low compliance benchmark” that should be seen as “an interim step towards governments better meeting the public interest objectives established by NCP reviews”.¹⁴

Reforms since 2008

In addition to the 17 point plan, the Victorian Government adopted further measures to improve the quality and availability of taxi services, including:

- Issuing 530 new greater Melbourne taxi licences, including 330 WAT licences
- Pre-payment of taxi fares at night (between 10pm and 5am)
- Making driver protection screens mandatory (including a subsidy to assist in purchasing the screens)
- Doubling the Multi Purpose Taxi Program’s trip and annual cap subsidies
- New performance quotas and a performance based booking system to improve the reliability and availability of wheelchair accessible taxi (WAT) services.

6.3. A stocktake of reform

The last 25 years has seen a major change in Victorian Government competition policy. In particular, National Competition Policy reforms (which applied to all markets in Victoria) focused government policy on the need for clearly defined regulatory objectives and a policy process that delivers on these objectives in the least intrusive or restrictive manner possible.

However, a key feature of regulatory and other reforms covering the taxi and hire car industry has been their avoidance of tampering with the basic structure of the industry and its long-established parameters – a structure that the Foletta Inquiry identified 23 years ago as leading to poor remuneration for drivers, high taxi licence values and insufficient availability of taxis to meet demand during peak periods.

Despite often compelling evidence about the broader community benefits of greater competition, successive Victorian Governments have been reluctant to undertake the fundamental reforms required to achieve this, instead preferring to rely on further government regulation of the industry.

While many past reforms have been well-intentioned, they have largely failed to deliver on promises of an affordable, high quality and safe transport service. Regulation has sometimes helped to ‘paper over the cracks’, but concerns about the adequacy of the industry’s performance remain. As noted in chapter 1, these concerns are the genesis of the current Taxi Industry Inquiry.

The inquiry considers that the principles of National Competition Policy remain as pertinent as ever to the taxi and hire car industry. Adherence to these principles does not imply unfettered competition: as discussed later, it requires a strong understanding of the problems that taxi and hire car regulation seeks to address and a consideration of options to solve these problems that cause the least distortions to normal market processes. In this way, competition can be harnessed in positive directions to deliver an efficient and consumer-responsive industry. Where competition will not deliver community expectations, well-designed regulatory and other interventions can increase net community benefits without encouraging undesirable behaviours.

¹³ National Competition Council (2003), *Assessment Of Governments’ Progress In Implementing The National Competition Policy And Related Reforms: Volume Two Legislation Review And Reform*, Melbourne, p.2.11

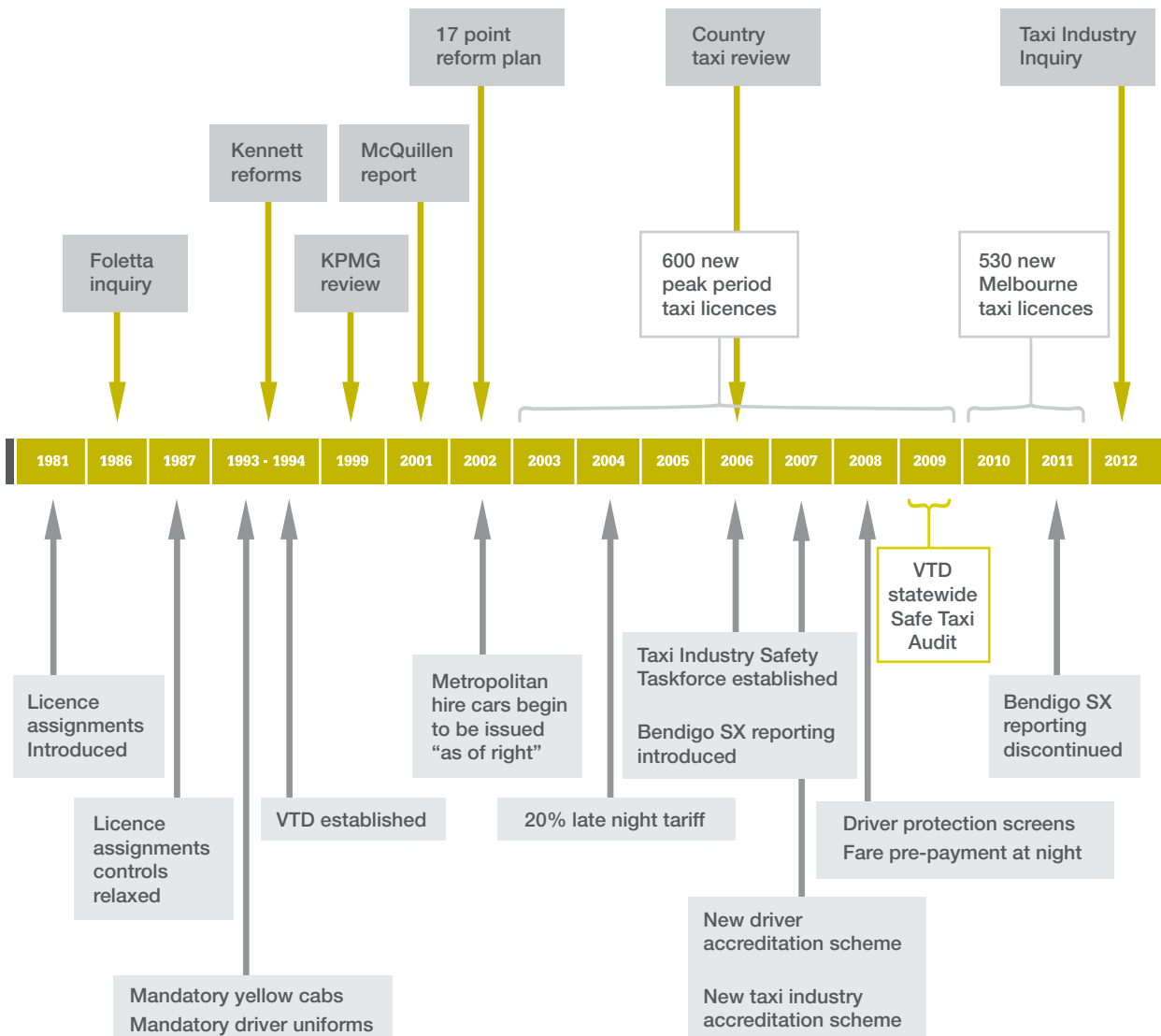
¹⁴ National Competition Council (2004), *Assessment Of Governments’ Progress In Implementing The National Competition Policy And Related Reforms: Volume One: Assessment*, Melbourne, p.9.14

Inquiry findings

- ➔ The fundamentals of the regulatory framework covering taxis and hire cars have been unchanged for many years.
- ➔ The regulation of licence numbers, fares and driver remuneration was introduced – and has developed – largely at the behest of private interests rather than a concern about the public interest.

- ➔ Despite major reviews recommending significant reform of taxi and hire car regulation, successive Victorian Governments have generally preferred to add more regulation rather than promote greater industry self-regulation and market regulation through competition.
- ➔ While recent Victorian Government reform efforts reflect an ongoing interest in taxi and hire car industry performance, it has failed to significantly improve the longstanding service and performance problems identified by previous inquiries and reviews.

Taxi industry reform timeline – 1981 to 2012



Chapter 7.

7. The current regulatory regime

Key messages

- The regulatory regime governing taxis and hire cars in Victoria is a complex and prescriptive one, delivered through an array of interlocking and often overlapping Acts and regulations.
- The regime imposes requirements on taxi and hire car licence holders, operators, drivers and networks and incorporates licensing conditions, provisions for trading and assigning licences, industry and driver accreditation schemes, vehicle and equipment specifications, record-keeping requirements and business and service standards.
- The Taxi Industry Accreditation Scheme and the Commercial Passenger Vehicle Driver Accreditation Scheme comprise the bulk of the work carried out by the industry regulator.
- Some of the current regulatory controls on the industry are unnecessarily burdensome, redundant or duplicative.
- The complexity of the regulatory regime makes it difficult for industry participants to ensure they are fully compliant with all their legal obligations, and generates unnecessary cost burdens for industry and administrative burdens for the regulator.
- Despite covering a broad range of matters, the regime has little clarity of purpose or direction, including having no clearly identified policy objectives for taxi and hire car services and no formal integration of these services within broader transport planning.
- There is general agreement within the industry and government that the regime is far from 'best practice' and in need of a significant overhaul.

Within the overarching regulatory framework for Victoria's transport system, separate schemes are in place to regulate the supply of taxi and hire car licences, driver quality and service and vehicle standards.

As the Department of Transport (DOT) observed in its submission to the inquiry:

The taxi and hire car sector has the oldest regulatory regime in the Victorian transport portfolio. It is also the only major area of transport activity in Victoria which is not governed by a discrete statute.¹

This complex regime determines how passengers (the buyers of taxi services) interact with licence holders, operators and drivers (the sellers of taxi services) and the nature and quality of the services provided. This chapter gives an overview of the current regulatory regime for taxis and hire cars. The evolution of the regime is described in chapter 6 and the impact of the regime on the industry's performance is examined in Part D.

7.1. Legislation covering the industry

Regulation of the taxi and hire car industry is achieved through a complex array of Acts and regulations, summarised in the table in Table 7.1. The key legislative instruments are the *Transport Integration Act 2010* (TIA), which sets out the new high level principle-based framework for the transport system in Victoria, and the *Transport (Compliance and Miscellaneous) Act 1983*, which contains the current licensing and accreditation schemes.

¹ Department of Transport (DOT), Submission to the Taxi Industry Inquiry, SS168, August 2011, p.4

Table 7.1 Enabling Acts and regulations

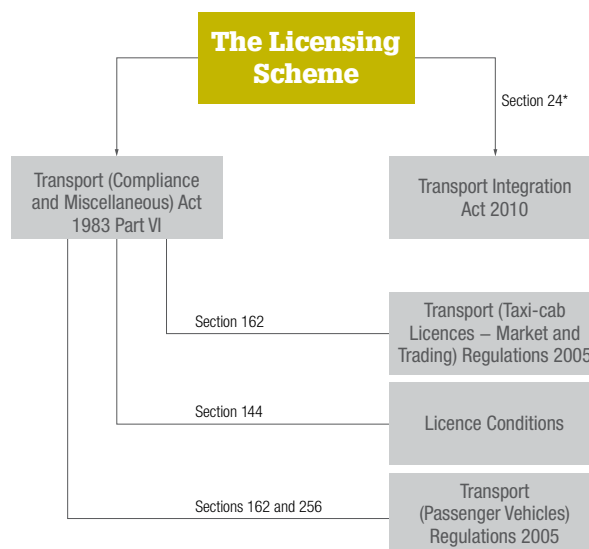
Legislation title	Content and function
<i>Transport Integration Act 2010</i>	<p>Victoria's primary transport statute, the TIA promotes a principle-based statutory regime for 'an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible State'. The Act sets out:</p> <ul style="list-style-type: none"> • A policy framework for the transport system in Victoria, comprising transport system objectives and decision-making principles for transport bodies to follow when performing their functions • The objects, functions and powers of all transport bodies, including the Secretary to the DOT and the new industry regulator, the Taxi Services Commission. <p>The TIA does not contain any provisions that directly regulate the taxi and hire car industry.</p>
<i>Transport (Compliance and Miscellaneous) Act 1983</i>	<p>Formerly known as the <i>Transport Act 1983</i>, this Act was amended in 2010 when the TIA was introduced. The Act is the primary statute regulating the taxi and hire car industry and regulates the taxi and hire car licensing and accreditation schemes administered by the Victorian Taxi Directorate (VTD) under delegation from the Secretary to the DOT.</p>
<i>Transport (Taxi-cabs) Regulations 2005</i>	<p>These regulations contain measures designed to enhance passenger and driver safety and the reliability and quality of taxi services, including requirements for, or in relation to:</p> <ul style="list-style-type: none"> • Driver accreditation, conduct and presentation • Taxi-cab construction, equipment, appearance and operation • Hirings, the charging and payment of fares and charges and the operation of taximeters • The conduct of passengers.
<i>Transport (Passenger Vehicles) Regulations 2005</i>	<p>These regulations govern the operation of buses, hire cars and other small passenger vehicles (other than taxis). The regulations aim to ensure the safe and efficient operation of these vehicles, and facilitate comfortable and convenient travel in these vehicles.</p> <p>The regulations set out certificate, licence and record-keeping requirements, plate, signage and device requirements, vehicle specifications and operations. These include obligations on the driver around ticketing, fares, timetables and passenger behaviour.</p>
<i>Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005</i>	<p>The objectives of these regulations are:</p> <ul style="list-style-type: none"> • To authorise persons to trade in taxi licences • To facilitate the operation of an orderly, transparent and efficient market for the transfer of, and the assignment of the right to operate vehicles under, certain taxi licences. <p>The regulations authorise specific persons to trade in taxi licences and the specification of exchanges by the licensing authority. All reasonable steps must be taken to ensure that dealings are conducted, recorded or disclosed in accordance with specified systems, methods or rules. Dealing-related information must be recorded or disclosed, unless exemption is provided by the licensing authority.</p>
<i>Transport (Taxi-Cab Industry Accreditation) Regulations 2007</i>	<p>These regulations support the industry accreditation scheme by prescribing:</p> <ul style="list-style-type: none"> • Evidence and other things that must accompany an application for accreditation • Conditions to which accreditations are subject relating to the keeping of records, the submission of information to the licensing authority and the inspection and auditing of records. <p>The regulations set out the prescribed information that participants in the taxi industry are required to provide to the licensing authority at the time of an application for accreditation and to keep as records and provide to the licensing authority over time.</p> <p>These requirements are directly related to the various business and service standards that apply to each industry participant and are intended to provide the licensing authority with information to enable it to assess whether participants are meeting their respective business and service standards. The specific requirements include different obligations for:</p> <ul style="list-style-type: none"> • Licence holders, who are required to keep and provide records to the VTD on assignees • Operators, who are required to keep and provide records to the VTD on taxi operations, including (but not limited to) the number, value and distances travelled per trip as well as records on inspections, faults, maintenance and complaints. Operators are also required to provide information on the drivers who operate their taxi(s) • Primary network service providers, who are required to keep and provide records to the VTD on their activities, including (but not limited to) bookings, response times, emergencies, complaints, and disciplinary actions. <p>Failure to comply with the regulations is an offence attracting financial penalties.</p>

Legislation title	Content and function
<i>Road Safety Act 1986</i>	This Act regulates the vehicle registration and licensing regime applying to all vehicles and road users in Victoria (including taxis and hire cars). The Act also sets out the general obligations of road users in relation to responsible road use and the obligations of driving instructor authorities.
Other legislation with an impact on the taxi and hire car industry	<p><i>Motor Vehicle Standards Act 1989 (Commonwealth)</i> Establishes national motor vehicle standards and other related matters.</p> <p><i>Disability Discrimination Act 1992 (Commonwealth)</i> Provides protection for all Australians against discrimination based on disability. Includes specific standards for access to buildings, public transport and other areas.</p> <p><i>Essential Services Commission Act 2001</i> Establishes the Essential Services Commission (ESC) as the primary economic regulator of essential services in Victoria. The ESC has a role under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> in reviewing taxi fares, licence fees for hire car licences or special purpose vehicles upon referral by the Minister.</p> <p><i>Bus Safety Act 2009</i> Provides the safety accreditation regime for bus services in Victoria. In certain circumstances, this regime overlaps with the taxi and hire car accreditation regime under the <i>Transport (Compliance and Miscellaneous) Act 1983</i>.</p> <p><i>Occupational Health and Safety Act 2004</i> Victoria's principal OH&S regime.</p> <p><i>Equal Opportunity Act 2010</i> Protects Victorians from discrimination on the basis of their personal attributes (such as age, gender and race) in certain areas of public life, including the provision of goods and service.</p> <p><i>Accident Compensation Act 1985 & Accident Compensation (Workcover Insurance) Act 1993</i> State legislation that provides for compensation to injured workers. Taxi drivers are entitled to personal injury insurance cover for work-related incidents.</p>

7.2. The licensing and accreditation schemes

Administering the taxi and hire car licensing and accreditation provisions – and associated compliance and enforcement activities (Part VI of the *Transport (Compliance and Miscellaneous) Act 1983*) – comprises the bulk of the work carried out by the industry regulator in Victoria.² These provisions have been heavily influenced by the historic development of the taxi and hire car industry (as outlined in chapter 6). The major elements of the regulatory structure are depicted in the figures in the following figures.

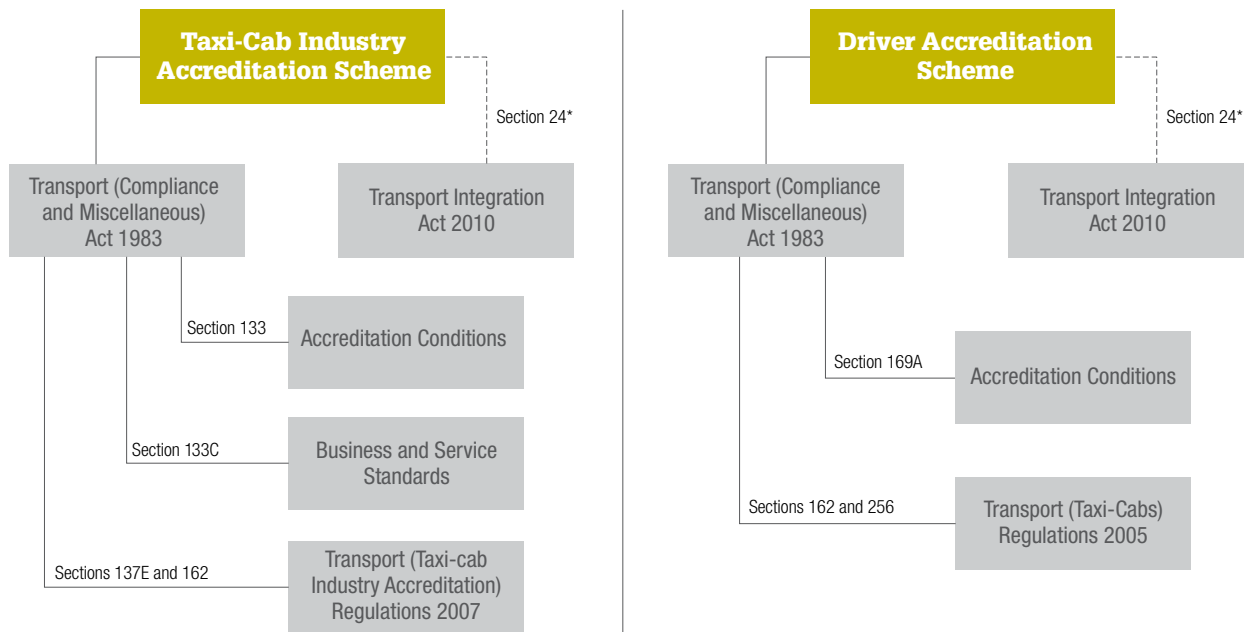
Figure 7.1 Licensing scheme



* Must have regard to the transport system objectives and decision making principles set out under Part 2 of the Act.

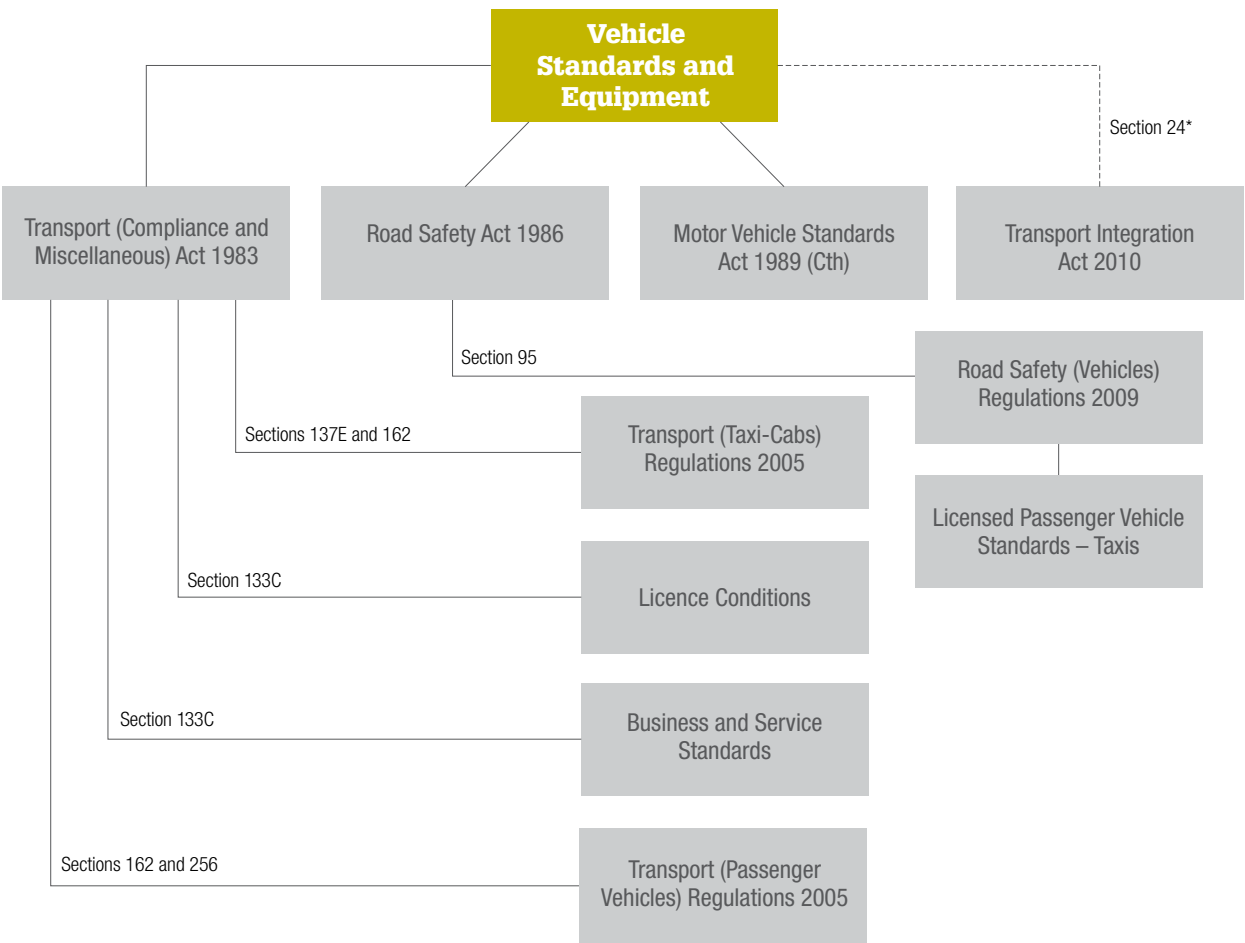
² Chapter 8 examines the role and performance of the regulator

Figure 7.2 Accreditation schemes



* Must have regard to the transport system objectives and decision making principles set out under Part 2 of the Act.

Figure 7.3 Vehicle standards and equipment



*Must have regard to the transport system objectives and decision making principles set out under Part 2 of the Act.

7.2.1. Licensing scheme

Under Victoria's licensing scheme, it is technically the vehicles that are licensed. The *Transport (Compliance and Miscellaneous) Act 1983* defines a taxi-cab as:

“...a commercial passenger vehicle which is used or intended to be used for hiring by the public on demand and which operates by being hailed or from a stand appointed for the use of such vehicles or which has been previously booked or ordered but does not include such a vehicle which operates solely by being previously booked or ordered.”³

For the purposes of the *Transport (Compliance and Miscellaneous) Act 1983*, taxis and hire cars are a class of commercial passenger vehicle, which is defined as:

“any motor vehicle (together with any trailer fore-car side-car or other vehicle or device, if any, attached thereto) which is used or intended to be used for carrying passengers for hire or reward.”⁴

Under sections 139 and 158 of the *Transport (Compliance and Miscellaneous) Act 1983*, a commercial passenger vehicle must not operate on a highway without being authorised to operate by a licence, permit or other authority under the Act.

Issue of licences

The licensing authority may grant an application for a taxi-cab licence under section 143 of the *Transport (Compliance and Miscellaneous) Act 1983*. In deciding whether to grant such an application under this section, the licensing authority is required to have regard primarily to the interests of the public. However, metropolitan taxi-cab licences are usually issued by the licensing authority under section 143A.

Under section 143A, the Minister for Public Transport (the Minister) may make an order for the granting of taxi-cab licences in a specified taxi-cab zone or zones. The metropolitan taxi-cab peak service licences and the recent 200 conventional fixed-term taxi licences and 330 wheelchair accessible fixed-term taxi licences in the Greater Melbourne area were released under section 143A. The Minister may specify that the licence fees to be paid for licences granted under section 143A are to be determined by tender or are to be a fixed price. The Minister can also specify who is eligible to apply for a licence and the procedures to be followed by the licensing authority for the granting of the licences.

Taxi-cab licences can be issued on the basis that the licence may be, or must not be, transferred or the subject of an assignment (section 143D). Since 2000, no transferable or assignable licences have been issued in Victoria.

An applicant whose application for a commercial passenger vehicle licence is refused may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the licensing authority's decision.

The licensing authority is also empowered to grant an application for a hire car licence under section 142 of the *Transport (Compliance and Miscellaneous) Act 1983* if the licensing authority is, amongst other things, satisfied that the applicant is a fit and proper person to hold the licence. The licensing authority must have regard to various matters, including whether the granting of the application would be likely to adversely affect the viability of the provision of existing taxi or hire car services in the relevant district.

Licence conditions

The *Transport (Compliance and Miscellaneous) Act 1983* specifies a number of implied conditions of commercial passenger vehicle licences. For example, a licence holder must commence operating a commercial passenger vehicle service within 90 days of being sent a notice that the licence has been granted.⁵ There are also implied conditions that relate particularly to taxi-cab licences. For example, any late night surcharge or holiday surcharge paid by a passenger must be retained by the taxi driver.⁶

Section 144 also separately empowers the licensing authority to attach other conditions appropriate to the service to be provided as it thinks proper to impose in the public interest.

The licence conditions that are attached to taxi licences vary depending on the category of licence: conventional perpetual, conventional fixed-term, wheelchair accessible, multi-purpose (M50), high occupancy (M80) and peak service. A wide range of matters is covered by licence conditions, including general conditions covering zoning, taxi availability, fare setting and Multi Purpose Taxi Program (MPTP) equipment and processing. Special conditions cover such matters as security cameras, child restraints, age of vehicles, driver ID display, advertising on vehicles and vehicle performance data.

Licence conditions can be varied at any time by the licensing authority, pursuant to section 146 of the Act.

³ Section 86 *Transport (Compliance and Miscellaneous) Act 1983*

⁴ Ibid.

⁵ Section 144(2)(g) *Transport (Compliance and Miscellaneous) Act 1983*

⁶ Section 144(5) *Transport (Compliance and Miscellaneous) Act 1983*

Under sections 144 and 144A, the Minister may, after receiving reports from the Essential Services Commission and the Secretary, determine fares or hiring rates for taxis. Fare schedules are attached to licence conditions.

Trading licences

Section 149 of the *Transport (Compliance and Miscellaneous) Act 1983* provides for the transfer of commercial passenger vehicle licences (including those taxi licences that are not subject to a condition that they cannot be transferred). Under section 150, the right to operate a vehicle under a taxi-cab licence may be assigned as long as the licence is not subject to a condition that the right cannot be assigned.

Sections 150A of the *Transport (Compliance and Miscellaneous) Act 1983* and the *Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005* provide a regulatory framework for the conduct of dealings relating to the transfer and assignment of taxi-cab licences.

Under sections 143A, 144, 146, 147A, 153 and 157 of the *Transport (Compliance and Miscellaneous) Act 1983*, a taxi-cab licence may be suspended or revoked or cancelled on specified grounds.

Sections 158 to 162 provide for various offences and related provisions and the making of regulations.

Vehicle standards and equipment

All commercial passenger vehicles must comply with the standards set out in the *Transport (Taxi-Cabs) Regulations 2005* (for taxi-cabs), the *Transport (Passenger Vehicles) Regulations 2005* (for hire cars and buses) and the *Road Safety (Vehicles) Regulations 2009*. Among other things, these regulations determine the types of vehicle that can be used as taxis, hire cars and buses and the equipment that must be installed in those vehicles.

Regulation 12 of the *Transport (Taxi-Cabs) Regulations 2005* provides that the licensing authority may determine and publish in the Victorian Government Gazette specifications for all taxi-cabs or for a class of taxi-cabs. Under these regulations, the VTD determines specifications that must be met for equipment that is fitted in taxi-cabs, such as security cameras and electronic payment terminals. For example, the VTD gazetted a number of vehicle specifications in May 2007, covering matters such as occupant capacity, passenger seats and seat belts, advertisements, livery, luggage space and taxi age limits.⁷

Further, taxis must adhere to the Licensed Passenger Vehicle Standards – Taxis (December 2005), which forms part of the written directions issued to Licensed Vehicle Testers by VicRoads under Regulation 220 of the *Road Safety (Vehicles) Regulations 2009*.

⁷ Victorian Government Gazette No G 21, Thursday 24 May 2007

Mandatory equipment in taxis

Taxis are required by regulation to carry certain items of equipment. The main reason for regulating this equipment is to ensure a consistent standard of service to customers, including consistency and reliability in calculating fares.

- **Taximeter** – All taxis must carry a meter that complies with a set of technical specifications defined by the VTD. The primary function of the meter is to calculate the total fare payable by a passenger based on a defined metrology. Meters also have a secondary function of providing driver records that support driver payments.
- **EFTPOS/MPTP terminal** – All Victorian taxis must be fitted with an EFTPOS terminal that can process MPTP member and driver cards. Currently, the only EFTPOS terminals able to do this are Cabcharge terminals. The terminal is interconnected to the taximeter (a measure that was introduced by the VTD to limit MPTP scheme fraud). The terminal is equipped with a SIM card and is able to communicate directly with Cabcharge whenever a transaction is being processed.
- **Secondary EFTPOS terminal** – Secondary EFTPOS terminals must comply with VTD's receipting requirements. This secondary terminal is usually a hand-held device that is not interconnected to other in-cab equipment. Only one secondary EFTPOS terminal is permitted to be carried by a taxi in Victoria.
- **Mobile Dispatch Terminal (MDT)** – This device enables the affiliated network service provider (NSP) and driver to manage booked work. Current devices also incorporate an emergency alarm, a two-way radio for voice communication and a GPS-based navigational aid that transmits the taxi's location and hire status to the network operator via the radio link every 30 to 120 seconds.
- **Safety camera** – Under the 2009 specifications, safety cameras continuously capture images from within and outside the taxi for a period of 72 hours. Images are stored in a secure environment within the taxi and overwritten after 72 hours unless otherwise downloaded. Images are only downloaded by VTD when authorised to do so by Victoria Police.
- **Printer** – The ability to print receipts is a requirement for all taxis and is generally provided by the thermal printer housed in the EFTPOS terminal, although all taximeters are able to print directly to a standalone printer if an EFTPOS unit is not fitted.
- **Dome light** – The dome light is required by regulation and is used to notify customers of a taxi's availability and the tariff being used. The dome light is driven by relay switches built into the taximeter.
- **GPS navigator** – While not a legal requirement, these devices are progressively being used by drivers as navigational aids. Most current MDTs incorporate a GPS navigation aid.

As well as ensuring that equipment meets regulatory standards, the VTD has a process in place for reviewing and approving electronic equipment in taxis. Approval is generally given if equipment appears to satisfy the regulatory requirements and VTD's own equipment specifications.

In addition to these approved devices, a range of products are in various stages of development and are likely to be submitted for approval in the coming year. These devices include a number of 'next generation' taximeters and at least two taximeter upgrades that introduce auto toll capability.

A number of firms supply these devices to the taxi industry, usually through resellers who are trained and authorised by the manufacturer to install the equipment. The larger NSPs have established themselves as authorised resellers/installers of nominated taxi equipment and generally provide the taxi fit-out for their affiliated operators.

Authorised installers of the Cabcharge/MPTP EFTPOS terminal are also VTD-approved holders of the MPTP data security key card. The card is used by the installer to preload the MPTP data encryption code onto newly installed terminals.

In addition to the NSPs who act as installers, a number of independent organisations have established themselves as authorised installers, many of whom operate auto electrical businesses in conjunction with taxi fit-outs.

Generally, the regulations deal with each piece of in-cab equipment on an item-by-item basis, meaning that the regulator does not consider in-cab equipment as an integrated technology 'set'. In addition, the consequences of mounting multiple devices and using specialist taxi instruments in a standard passenger vehicle are largely unregulated.

7.2.2. Taxi Industry Accreditation Scheme

Since 2007, the licensing scheme has been accompanied by an accreditation framework for participants in the industry. One accreditation scheme covers licence holders, operators and network service providers (NSPs), while a second accreditation scheme covers drivers of commercial passenger vehicles (including taxi drivers) and vehicles used for the operation of private bus services.

The purpose of the accreditation scheme is identified in section 130 of the *Transport (Compliance and Miscellaneous) Act 1983* as being:

“...to facilitate the provision of safe, reliable and efficient taxi-cab services that meet reasonable community expectations.⁸”

This purpose underpins the accreditation scheme for licence holders, taxi-cab operators and NSPs, which is set out in Division 4 of Part VI of the Act.

A person cannot be granted and cannot retain a taxi-cab licence in Victoria unless the person is, and remains, accredited as a taxi-cab licence holder.⁹ A taxi-cab must not be operated (that is, used for the purposes of carrying passengers for hire or reward) unless the licence holder or (where the right to operate a vehicle under the licence has been assigned) the assignee is accredited as a taxi-cab operator.¹⁰ A person must not provide a taxi-cab network service unless the person is accredited to provide that service.¹¹ Accreditation cannot be transferred or assigned to any other person and can be granted for no more than five years.¹²

Essentially, a person cannot hold a taxi licence or operate a taxi in Victoria unless they are accredited to do so by the licensing authority (currently the Secretary to the DOT) or a delegate of that person.¹³ Subject to certain provisions that require the licensing authority to refuse an application, the licensing authority may approve an application for accreditation if it is satisfied that the applicant is suitable to be accredited and has complied with the application requirements.¹⁴ The *Transport (Compliance and Miscellaneous) Act 1983* specifies a range of detailed eligibility requirements relating to criminal history, relevant industry knowledge, financial capacity and general capacity and competence to meet the business and service standards for the activities for which the person would be accredited.¹⁵

In circumstances where the licensing authority must refuse an application (such as where the applicant has been found guilty of a tier 1 criminal offence) or where the licensing authority exercises its discretion to refuse an application on any of the bases open to it under the *Transport (Compliance and Miscellaneous) Act 1983*, the unsuccessful applicant can apply to VCAT for a review of the authority's decision.¹⁶

Conditions and Business and Service Standards

An accreditation is subject to any condition set out in the regulations that applies to the accreditation.¹⁷

The licensing authority can also impose conditions on an accreditation or restrict the scope of an accreditation at any time. The conditions and restrictions can be varied or revoked by the licensing authority.¹⁸ It is an offence not to comply with a condition or restriction.¹⁹

The Minister is empowered under the *Transport (Compliance and Miscellaneous) Act 1983* to determine minimum Business and Service Standards that must be met by accredited persons.²⁰ These standards may relate to matters in a number of areas, including customer service, complaint handling, compliance with legislation, financial viability and business capability. Separate standards exist for licence holders, operators and NSPs. For example, the Business and Service Standards that apply to operators include that:

“...an operator will ensure that each taxi-cab is available for hire, or is hired, for 90 per cent of high demand periods (if any) for the service area within which it is licensed to operate, calculated over each quarter in each financial year, subject to any conditions of the relevant taxi-cab licence.”²¹

Disciplinary action

Subdivision 6 of Division 4 of Part VI of the *Transport (Compliance and Miscellaneous) Act 1983* provides for the licensing authority to take a range of disciplinary actions against an accredited person in circumstances where, for example, an accredited person fails to comply with a Business and Service Standard or a condition of accreditation.²² Sanctions range from issuing a reprimand to cancellation of the accreditation.²³ The Act sets out the procedure that must be followed by the licensing authority when taking disciplinary action. This includes giving the accredited person written notice that the authority proposes to take disciplinary action and giving the person an opportunity to make a written submission.²⁴

⁸ Section 130 *Transport (Compliance and Miscellaneous) Act 1983*

⁹ Sections 143, 143A and 156A *Transport (Compliance and Miscellaneous) Act 1983*

¹⁰ Section 131 *Transport (Compliance and Miscellaneous) Act 1983*

¹¹ Section 131A *Transport (Compliance and Miscellaneous) Act 1983*

¹² Section 132C(1)(b) *Transport (Compliance and Miscellaneous) Act 1983*

¹³ Section 132B *Transport (Compliance and Miscellaneous) Act 1983*

¹⁴ Section 132B *Transport (Compliance and Miscellaneous) Act 1983*

¹⁵ Sections 132D to 132F *Transport (Compliance and Miscellaneous) Act 1983*

¹⁶ Sections 136 and 136A *Transport (Compliance and Miscellaneous) Act 1983*

¹⁷ Section 133(3) *Transport (Compliance and Miscellaneous) Act 1983*

¹⁸ Sections 133(1) *Transport (Compliance and Miscellaneous) Act 1983*

¹⁹ Section 133B *Transport (Compliance and Miscellaneous) Act 1983*

²⁰ Section 133C *Transport (Compliance and Miscellaneous) Act 1983*

²¹ Business and Services Standards: Part 2 – Taxi-cab Operators, clause 19

²² Section 135 *Transport (Compliance and Miscellaneous) Act 1983*

²³ Section 135A *Transport (Compliance and Miscellaneous) Act 1983*

²⁴ Section 135B *Transport (Compliance and Miscellaneous) Act 1983*

The licensing authority can suspend an accreditation immediately in limited circumstances.²⁵ If an accredited person is contravening or has contravened a condition, business and service standard or a provision of the *Transport (Compliance and Miscellaneous) Act 1983* or regulations, the licensing authority may serve an improvement notice on an accredited person requiring them to remedy the contravention.²⁶ Penalties apply to a failure to comply with an improvement notice.

The *Transport (Taxi-Cab Industry Accreditation) Regulations 2007* set out further requirements for industry accreditation, including information that must accompany applications for accreditation and record keeping obligations.

Section 156A of the Act specifies the consequences for taxi-cab licence holders and assignees of certain circumstances arising, or decisions taken, under the accreditation scheme.

Under Subdivision 7 of Division 4 of Part VI of the Act, VCAT is given jurisdiction to review specified classes of decisions taken under Division 4.

7.2.3. Commercial Passenger Vehicle Driver Accreditation Scheme

Division 6 of Part VI of the *Transport (Compliance and Miscellaneous) Act 1983* sets out the accreditation scheme for drivers of commercial passenger vehicles, including taxi-cabs. The scheme is underpinned by a public care objective set out in section 164 of the Act:

The public care objective is the objective that the services provided by drivers of commercial passenger vehicles and vehicles used for the operation of commercial bus services, commercial minibus services and local bus services:

- *be provided*
 - *with safety; and*
 - *with comfort, amenity and convenience to persons using the services and to other persons, particularly children and other vulnerable persons; and*
- *be carried out in a manner that is not fraudulent or dishonest.*²⁷

With limited exceptions, a person must not drive a commercial passenger vehicle unless he or she holds a driver accreditation.²⁸ All drivers must be technically competent and, in the case of metropolitan taxi drivers, must also successfully complete mandatory technical competency training, which is carried out by a Registered Training Organisation.

The person responsible for accrediting drivers is the Secretary to the DOT (or a delegate of the Secretary) who may require applicants for accreditation to undertake specified courses of training, hold specified qualifications and pass tests, including tests relating the fitness to drive a vehicle or the applicant's medical condition. An accreditation may be held for up to three years and may be renewed.

The primary requirements for accreditation are that the person is judged by the Secretary to be technically competent and sufficiently fit and healthy to provide the relevant service, and to be suitable in other respects to provide the service, and that the granting or renewal of the accreditation is assessed by the Secretary as being appropriate having regard to the public care objective. However, the Act also specifies a range of detailed eligibility requirements relating to criminal and driving history and the holding and status of a Victorian driver's licence.

As with taxi licence holders and operators, conditions can be imposed on a driver's accreditation and the Secretary can take a number of disciplinary actions against drivers, including suspending and cancelling accreditation.

Disciplinary action

Under sections 169A to 169C of the *Transport (Compliance and Miscellaneous) Act 1983*, the Secretary can impose conditions on an accreditation and disqualify a person from applying for the grant or renewal of accreditation for a period following the refusal by the Secretary to grant such an application or the cancellation of an accreditation. Sections 169E to 169M of the Act provide for suspensions and cancellations of accreditations and the taking by the Secretary of specified disciplinary actions. Sections 169N to 169P provide for a right of review by the VCAT of decisions in relation to driver accreditation.

The remaining provisions of Division 6 cover offences, fees and regulations relating to driver accreditation.

²⁵ Section 135C *Transport (Compliance and Miscellaneous) Act 1983*

²⁶ Section 135F *Transport (Compliance and Miscellaneous) Act 1983*

²⁷ Section 164 *Transport (Compliance and Miscellaneous) Act 1983*

²⁸ Section 165 *Transport (Compliance and Miscellaneous) Act 1983*

7.2.4. Compliance and enforcement

The accreditation and licensing schemes contain numerous offences and enforcement provisions, which assist the licensing authority to achieve compliance with the regulatory regime. These enforcement powers are delegated to the Victorian Taxi Directorate (VTD), which employs transport safety officers who are responsible for carrying out vehicle and driver inspections and audit personnel who conduct audits of operators and NSPs to ensure compliance with the business and service standards and the regulations.

The VTD’s activities in applying the regulations are examined in chapter 8.

7.3. A complex, prescriptive regime

Over the years, the regulations governing taxis and hire cars have evolved into a highly complex and prescriptive regime. The DOT comments that the regime has evolved through “layer upon layer of amendments [being] imposed on the existing regulatory model” and concedes that some of the current regulatory controls on the taxi and hire car sector can be reasonably regarded as “burdensome, complex, redundant or duplicative”.²⁹ Similarly, the Department of Treasury and Finance notes that the current regulatory framework results in “an inefficient regulatory approach with over-regulation in some areas and under-regulation in others”.³⁰

A number of submissions and responses to the inquiry claim that the complexity of the regulatory regime makes it difficult for industry participants to ensure they are fully compliant with all their legal obligations, as well as imposing unnecessary cost burdens on taxi and hire car operators and networks. Others observe that the prescriptive nature of the regime stifles innovation.

The VTD has also told the inquiry that the current regulatory framework imposes significant and unnecessary administrative burdens on the regulator and that many relatively minor tasks currently ascribed to the VTD could be better and more appropriately managed by industry.

7.3.1. Overlaps and duplication

The DOT and others point to several instances where regulations overlap with each other and with other pieces of legislation, either covering the same ground or introducing potentially conflicting requirements.

Examples of these overlaps are listed in the table below.

Table 7.2 Regulatory overlaps

Legislation title	Content and function
Division 4 of Part VI of the <i>Transport (Compliance and Miscellaneous) Act 1983</i> overlapping with the <i>Bus Safety Act 2009</i>	Some wheelchair accessible taxi (WAT) operators wishing to operate bus-type services may need to be accredited or registered under the <i>Bus Safety Act 2009</i> , notwithstanding that they may already be accredited under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> to operate the same WAT taxi-cabs
Divisions 4 and 6 of Part VI of the <i>Transport (Compliance and Miscellaneous) Act 1983</i> overlapping with each other	Some taxi licence holders who are accredited as an operator and driver, and who also run an NSP, are required to be accredited four times under Divisions 4 and 6 of the Act. The tier 1, 2 and 3 offence provisions of Division 4 are slightly less onerous than the category 1, 2 and 3 offence provisions of Division 6. In effect, this means that if a person is charged with or convicted of a category 1 offence, they may face a mandatory cancellation of their driver accreditation, but not a mandatory cancellation of their industry accreditation or their licence. This creates a curious scenario when a licence holder may keep their licence and/or their industry accreditation, but not be able to drive their taxi (or something similar). In a recent example in regional Victoria, a licence holder had his driver, operator and NSP accreditation suspended, after being found guilty of a category 1 criminal offence (fraud and theft), but did not lose his taxi-cab licence.

29 DOT, Op. Cit., pp.4-5
30 Department of Treasury and Finance (DTF), Submission to the Taxi Industry Inquiry, SS179, p.3

7.3.2. Other issues

A number of respondents note that the complexity and heavy-handedness of the regulatory regime means that there is little clarity of purpose or direction across the relevant legislation. Comments to the inquiry include:

- There are no clearly identified and overarching policy objectives for taxi and hire car services expressed in the legislation.
- There is no formal recognition or integration of these services within broader transport planning.
- Despite the extensive range of matters covered by the regulations, there is still no effective performance monitoring regime to track and reward good performance.
- While the new *Transport Integration Act 2010* sets new directions for the integration and sustainability of transport in Victoria, these directions are not reflected in the regulations governing taxi and hire car services.

Aside from issues of market structure, competition and the like, there is general agreement within the industry and government that the regulatory regime covering taxi and hire car services in Victoria is far from 'best practice' and in need of a significant overhaul.

Inquiry finding

→ Regulations governing the taxi and hire car industry have evolved over time, with multiple layers of regulation now added on top of longstanding economic regulations that restrict entry and competition. This has resulted in a complex and prescriptive regulatory framework that has little clarity of purpose, includes significant areas of overlap and duplication, and creates unnecessary burdens for both the industry and the regulator.

The rationale for regulating taxis and hire cars

A well-designed regulatory regime can deliver significant consumer and community benefits without intruding unnecessarily into the market or placing unreasonable restrictions on competition.

The role for government

Governments may intervene in markets for a number of reasons. Regardless of the specific reasons, intervention should not restrict competition unless it is necessary to achieve a public benefit that cannot be achieved as effectively by other means. The Victorian Government committed to this principle in 1995 as part of its obligations under the National Competition Policy agreements and it remains an important policy objective.

The rationale behind this principle is that competition is considered to have a number of desirable features. In particular:

- Competition provides the spur for businesses to improve their performance, develop new products and respond to changing circumstances
- Competition offers the promise of lower prices and improved choice for consumers
- Competition leads to greater efficiency, higher economic growth and increased employment opportunities for the economy as a whole.³¹

For these reasons, governments generally do not intervene in competitive markets. However, there may be a role for governments where markets fail to deliver outcomes that are in the interests of the community. There are generally two sources of market dysfunction and both are relevant to the provision of taxi and hire car services. First, there is what economists call 'market failure'. Secondly, governments may intervene to pursue particular social objectives that even a functioning competitive market will not provide, or not provide in an adequate way.

Addressing market failure

There is general consensus among economic experts that market failure provides the basis for the economic regulation of markets. In the case of small commercial passenger vehicles such as taxis and hire cars, market failure may exist in key areas – suggesting that some regulation may be able to improve the functioning of the market.

Market failure is said to occur where the outcomes of an unfettered or free market are not efficient. By 'inefficient', economists mean that there is another conceivable outcome where a market participant may be made better off without making someone else worse off. Market failures can occur for a number of reasons. The most common reasons are:

- Where competition is not feasible or is not functioning well
- Where there are externalities – where actions impose costs or benefits on third parties
- Where there are strong information asymmetries between buyers and sellers, often leading to high transaction costs, especially for buyers.

In other words, economic analysis does not suggest there should be no regulation of the taxi and hire car markets: rather, the issue is to identify what problems exist and whether they are a result of market failure. However, this alone is not sufficient to imply that regulation should occur. Policy makers need to decide what options are available to address these market failures and then assess the costs and benefits of the various options.

Regulation is only one tool available to governments to address market failure issues. Other options include removing impediments to competition, rewarding good behaviour, education, information disclosure or using market based mechanisms. Different types of regulation should also be considered, such as self-regulation and co-regulation. In some instances, the costs of government intervention may outweigh the benefits, in which case governments may opt to 'do nothing'.

31 National Competition Policy Review Committee (August 1993), *National Competition Policy Review, 'The Hillmer Report'*, Canberra, p.1

In the case of taxis, alternatives to regulation might include educating drivers and passengers about changing their behaviour at ranks and moving away from the convention that passengers can only choose the first taxi at a rank. Making fares more transparent without price regulation is another example of providing information.

A clear understanding of the particular problem and its causes can provide guidance on whether there is a role for government. Sometimes, government itself may be the cause of the problem. In these instances, the question becomes: can government remove the impediment? In considering this question, some threshold questions need to be considered, such as:

- Whether the risks that government intervention is intended to address are significant compared with other risks
- The extent to which government intervention reduces the initial problem (that is, the effectiveness of the proposed government response).

Another very important reason for government not becoming involved may be that there will be a net cost to that intervention. For example, if remedies that require government expenditure are being considered, then it is important to understand that this money is not 'costless' to raise and that taxes, especially state taxes, impose a fairly significant cost on the efficiency of the economy as whole.

In addition, there is the opportunity cost (the cost of other options not pursued) of spending government money on one project rather than another.

It will only make sense to impose regulation, or some other intervention, in the market where there is a net benefit from doing so. To the extent that the regulation addresses the market failures, there is a benefit. However, regulation is not costless. It has direct costs, such as the cost of the regulator and the costs to the regulated entities to ensure they comply. There are often other costs as well, such as the costs of the regulator getting it wrong (regulatory failure): for example, setting a price that is either too high (discouraging consumers) or too low (where suppliers struggle to remain viable). Therefore, in circumstances where the benefits are relatively small and the potential costs are relatively high, there may not be a compelling case for regulation or intervention.

Analysis of market failures in taxi and related markets

The literature on the economics of taxi markets is substantial. This literature recognises the unique features of taxi and hire car markets, which lead to unusual results. Three main themes are developed in the literature:

- In situations where taxis are acquired from a rank or hailed on the street, there are some good reasons to expect that competition will fail to work effectively.
- In situations where taxis – or other vehicles such as hire cars – are pre-booked, competition might work better but residual concerns may remain about the safety of the services offered.
- Restrictions on entry to the market are linked to increasing vehicle safety and quality, but there is little or no evidence to suggest that markets with entry restrictions have better or safer services than markets without entry restrictions. Therefore, these types of regulations are not well targeted.

Why competition may not produce good outcomes

Taxi services can be acquired by consumers in three different ways: hailing in the street, waiting at a rank or by pre-booking on the phone (or using a smartphone application).

A market failure that appears to be common to all three market segments is information asymmetry, in that consumers are not well placed to assess the quality and safety of vehicles and drivers before acquiring the service. This could lead to less than efficient levels of service quality and safety being maintained in the market. However, to the extent that repeat business is important to the business model of a taxi service provider (for example, this seems to be the case for hire cars and some taxi drivers/operators who work as part of a 'secondary network' in the pre-booked market), levels of service and safety are knowable. In the more general (rank and hail) market, other restrictions – such as standard livery – mean that customers have no way of knowing about these matters. This suggests that some form of regulation on minimum safety and quality standards may be warranted. The degree and nature of this regulation should work to ensure that there continues to be a net benefit from such an intervention. In other words, regulating for 'gold standard' quality and onerous safety conditions may erode any benefits delivered from solving the problem in the first place.

Beyond this, the prospects and types of market failure are quite different in each market segment:

- In the sub-market for taxis that are hailed, the source of the market failure is the presence of search and transaction costs. For example, the uncertainty of finding a vacant taxi or, if one is found, the costs of rejecting it and looking for another. This may well lead to higher than competitive prices for taxi services.
- In the sub-market for rank taxis, market failures appear to arise due to the simple queue matching system that commonly occurs at ranks and the convention that the taxi at the head of the queue is chosen. This limits competition between taxi services and, again, is likely to result in higher than competitive taxi fares.
- In the sub-market for pre-booked taxis, there are virtually no market failure arguments for regulation that could be addressed, with the possible exception of informational problems (such as customer awareness of fares).

In addition, in markets that have been de-regulated new entry is often significant, particularly if unemployment is high, creating considerable increases in supply and possibly excess supply. Adjustments down in supply are often slow. While some of the increase in supply may be related to reforms allowing easier entry, the attraction may be that the market (or regulatory) failure on prices leads to more suppliers being attracted to the market than would normally be the case. One further observation is that exit from these oversupplied markets tends to be slow.

Pursuing social objectives

Social objectives, such as improving access to transport for people with a disability or people living in regional areas with limited public transport options, may also provide a basis for market intervention. In these circumstances, government intervention may be required to ensure that services that would not normally be provided (or provided only at high cost), but which the government and community deems necessary, are available.³²

Application to markets for taxis and hire cars in Victoria

Applying the regulatory outcomes of addressing market failure and pursuing social objectives to Victoria's taxi and hire car markets suggests that:

- Regulating or restricting entry is unlikely to be justified
- There are some possible distinctions that can be made between the pre-booked, hail and rank market segments, which may require different regulatory approaches for each market
- There is likely to be a need for quality and safety regulation in the metropolitan Melbourne and outer suburban markets, as in most instances customers have no way of knowing about these aspects of the service in advance
- Hire cars and country taxi services are likely to require little regulation as long as there is sufficient competition and minimum vehicle and safety standards
- Maximising opportunities in pre-booked services (where negligible market failures have been identified) is likely to increase the scope for better market performance and market growth
- Giving taxis and hire cars a much bigger role as providers of point-to-point transport is likely to tap unmet demand as well as meet broader public transport objectives.

These issues are explored in greater detail in Part D of this report.

³² Chapter 15 contains a detailed analysis of taxi and hire car issues associated with improving taxi accessibility

Chapter 8.

8. Applying the regulations

Key messages

- The role of the Victorian Taxi Directorate (VTD) lacks clarity and the VTD lacks the appropriate degree of independence.
- While the VTD has improved many aspects of its operations in recent years, it remains constrained by inadequate governance arrangements and the difficulties associated with implementing a highly prescriptive regulatory scheme.
- The legislative framework within which the VTD operates does not provide for adequate transparency and accountability. This does not engender industry and public confidence in the regulator's decisions and operations. In particular, administrative practices and decision-making in the key functions of licensing, accreditation, compliance monitoring and enforcement lack transparency.
- Overly complex and prescriptive legislation has required the VTD to spend considerable time and resources on processes, outputs and activities that have had only limited impact on improving the performance of the industry. In some areas where the VTD has more operational discretion, it has not adopted good regulatory practice, although this has recently improved.
- The VTD does not take a sufficiently risk-based approach in determining compliance priorities for its limited resources. While it has recently increased the targeting of compliance activities, these are still not based on systematic assessments of risks to regulatory objectives.

- A lack of access to comprehensive industry information upon which to base its risk assessments and decisions has prevented the VTD from developing a more strategic approach. This lack of access to information seems to have resulted from a combination of ineffective regulation, the unwillingness of the industry to provide the data required and the unwillingness of the regulator to take the necessary action to deal with industry resistance.
- Some of the requirements the VTD has placed on the industry have not always taken sufficient account of the likely compliance burden and/or the implications for competition and consumers.
- The VTD lacks a comprehensive performance measurement framework across its major functions that would enable it to assess its performance over time and make adjustments to improve its efficiency and effectiveness.
- The VTD's effectiveness continues to be hampered by not having access to the range of data it needs to build a full understanding of the industry.

The effectiveness of any regulatory regime depends on the outcomes of the interaction of its various components:

- The content of the scheme (the provisions of the relevant Acts, regulations and other rules)
- The governance arrangements of the regulator
- How the regulator performs its role in practice, including the operational practices it adopts
- The capabilities and level of the resources available to the regulator.

Chapter 7 examines the first of these components. This chapter considers the other components that centre on the regulator: the regulator's role, how it is set up and how it goes about its business of interpreting, administering and enforcing regulation. Views about the regulator submitted to the inquiry from industry, stakeholders and the general public are also presented.

The analysis of the VTD's governance and performance in this chapter provides the foundation for the inquiry's proposals in chapter 22 for the design and operation of the new industry regulator, the Taxi Services Commission (TSC).

8.1. Introduction

The VTD is the primary regulator of taxis, hire cars and driving instructor authorities in Victoria. The VTD administers the regulatory scheme as the delegate of the Secretary of the Department of Transport (DOT) under Part VI of the *Transport (Compliance and Miscellaneous) Act 1983*. The VTD carries out the legislated accreditation and licensing functions and related compliance activities applicable to the taxi, hire car and driving instructor industries. The VTD is an administrative unit of the DOT. A General Manager is responsible for day-to-day operations, but does not have any statutory status.

The inquiry notes that the VTD has cooperated fully with the inquiry, including providing information and data on request. The inquiry also notes that the VTD has taken positive steps to improve its practices in response to a number of issues identified through the inquiry's processes.

The Government has announced its clear intention to reform regulation of the taxi industry and has set out some 'post inquiry' arrangements for the new regulator in the *Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011* (Transport Legislation Amendment Act). The analysis and findings in this chapter aim to provide the new regulator with indicators for improvements in performance that will lead to more strategic and transparent decision-making and more effective compliance and enforcement. These issues are discussed further in chapter 22.

8.1.1. Submissions and consultations

There is a relatively high level of dissatisfaction with the VTD across industry participants, taxi users and the general public. Predictably, issues of concern reflect the different interests of the various stakeholders. For industry participants, the effectiveness of the VTD's monitoring and enforcement activities is an issue, as is its approach to consultation and responsiveness to industry concerns. For taxi users, the VTD's complaints handling mechanism is a significant concern. General themes raised with the inquiry are summarised here.

VTD engagement with industry participants

Some industry participants suggest that the VTD is reluctant to investigate broader concerns about the structure and operation of the industry, and does not always act in the interests of all participants in the industry.

Many taxi operators feel that the VTD is unwilling to communicate with them, particularly around changes to regulations and that, in turn, the VTD lacks accountability to the industry.

Industry participants feel that the regulator's 'non-collaborative' approach has left the industry suspicious of policy changes and concerned that the VTD's decision-making is not appropriately informed.

Some comments have been made to the inquiry about 'regulatory capture', with some respondents reporting at least a perception that the VTD is too close to the Victorian Taxi Association (VTA) and considers the VTA's needs and opinions over other industry participants.¹

The inquiry has received several submissions from hire car and special purpose vehicle operators stating that they are unhappy with the regulatory role played by the VTD and that, in their view, the VTD:

- Does not properly communicate with industry about regulatory changes
- Is unappreciative of and unresponsive to the concerns of hire car operators
- Does not consult adequately with the industry
- Is not sufficiently rigorous in taking action against illegal operators and those who flout hire car licence conditions and regulations.²

Many hire car operators would like to see more formal recognition of their industry within the VTD or its replacement, such as the establishment of a dedicated hire car unit. Many hire car operators also consider that a total overhaul of current licensing types and conditions is needed.³

Groups such as the Victorian Equal Opportunity and Human Rights Commission, National Disability Services – Victoria and Scope note several positive steps taken by the VTD to facilitate input from taxi users with a disability, including the establishment of the Disabled Persons Taxi Advisory Committee.⁴

¹ CabFare, Submission to the Taxi Industry Inquiry, SS92, p.5

² Victorian Country Limousines Association, Submission to the Taxi Industry Inquiry, SS54, p.2

³ These issues are canvassed more fully in chapter 14

⁴ See Victorian Equal Opportunity and Human Rights Commission (VEOHRC), Submission to the Taxi Industry Inquiry, SS75, p.3 and Scope, Submission to the Taxi Industry Inquiry, SS67a, p.15

Role of the VTD in policy

Taxi industry representatives express the view that some government policy decisions are ‘politically motivated’ and there is not enough consultation between the VTD and industry during policy development and implementation:

“The quality of taxi policy has been in steady decline over the past 10 years. All aspects of the policy process seem to have been overrun by political agendas rather than delivering a first class taxi service to the Victorian community.”⁵

There appears to be confusion among some members of industry as to where policy decisions are made, with a common assumption being that the VTD makes strategic policy decisions and/or confusion as to which part of government is responsible for policy development.

Viability of the industry

The inquiry received feedback from taxi industry stakeholders who consider the VTD has neglected the viability and welfare of the industry and its participants – for example, by restricting the access of operators to other lines of revenue such as advertising and by allowing the industry to become over-reliant on international students as drivers.⁶

Complaints handling

There is a widely-held perception that the VTD’s complaints handling process is inadequate and not particularly ‘user friendly’ and that, based on past experiences, complainants will receive little or no follow up on their complaints.⁷

Until recently, the VTD required passengers to lodge all complaints in writing. This has left passengers with a lack of confidence in the VTD’s ability to follow up on urgent matters. Disability advocacy groups suggest that this requirement has contributed to the perception that the VTD’s complaints process is not transparent or accessible to all taxi users.⁸

Effectiveness of monitoring and enforcement of regulations

Taxi and hire car operators feel the VTD is not sufficiently rigorous in taking action against illegal operators, particularly those who flout hire car licence conditions and restrictions at Melbourne airport.⁹

Some taxi users express the opinion that drivers are not concerned about poor behaviour because the VTD does not take action against drivers for their actions.

Some agencies suggest that the complex structure of the industry appears to contribute to difficulties for the VTD in enforcing regulation.¹⁰ The VTD recognises these difficulties and has indicated that it welcomes the inquiry process as offering:

“... a valuable opportunity for the VTD to describe, in detail, the problems it encounters in its efforts to effectively regulate the taxi and hire car industry, in the hope that these obstacles might be overcome.”¹¹

Regional issues

Taxi and hire car operators have expressed concerns to the inquiry about the regulator’s low profile in regional Victoria, which is regarded as reflecting a lack of interest. Operators suggest this perception is reinforced by statewide regulations which they feel do not take into consideration the very different issues affecting regional operators. Regional operators believe regulations should be adapted to suit the distinct needs of regional and metropolitan operators.

New regulatory body

There is strong support from some stakeholders for a new regulatory body that is independent of the industry and government, and that is supported by a regulatory framework that will enable it to be more accountable, transparent and more effective.¹²

8.2. Governance arrangements

While the VTD is the primary regulator of the taxi and hire car industry, several other individuals and entities play significant parts in the administration of the regulatory regime:

- Minister for Public Transport – responsible Minister for the *Transport (Compliance and Miscellaneous) Act 1983* and the transport portfolio generally and decision-maker on some key matters, such as setting fares, issuing licences, approving licence fees and determining minimum accreditation standards

⁵ VTA, Op. Cit., p.8

⁶ Warrnambool City Council, Submission to the Taxi Industry Inquiry, SS61, p.4

⁷ Consumer Action Law Centre, Submission to the Taxi Industry Inquiry, SS90, p.2

⁸ Scope, Op. Cit., p.19

⁹ Victorian Country Limousines Association, Op. Cit., p.2

¹⁰ VEOHRC, Op. Cit., p.11

¹¹ Victorian Taxi Directorate, Submission to the Taxi Industry Inquiry, SS168, p.5

¹² VEOHRC, Op. Cit.; Australian and New Zealand Ombudsman Association (ANZO), SS296; and Consumer Action Law Centre, Op. Cit.

- Essential Services Commission (ESC) – an independent statutory body regulating essential services and also providing advice to the Victorian Government on taxi fares or hiring rates and licence fees for hire car licences or special purpose vehicles¹³
- Secretary to the DOT – formally the regulator under statute by virtue of being defined as the ‘licensing authority’ in the *Transport (Compliance and Miscellaneous) Act 1983*, but delegates functions and powers to officers of the DOT in the VTD
- Roads Corporation (VicRoads) – administers the *Road Management Act 2004* and parts of the *Road Safety Act 1986* (Road Safety Act), including the registration of vehicles and licensing of driver and maintenance of the VicRoads licensing database, as well as providing a range of services to the VTD
- Victorian Registration and Qualifications Authority (VRQA) – the statutory body responsible for the registration and accreditation of education and training providers for school education and vocational education and training, including taxi driver training bodies, in accordance with the *Education Training and Reform Act 2006*
- Victoria Police – enforces compliance with other relevant laws, investigates criminal matters relating to drivers and passengers and carries out regular police checks for the VTD.

A useful conceptual framework for assessing governance arrangements is provided by the Victorian Government publication: *Improving Governance of Regulators: Principles and Guidelines*.¹⁴ It identifies six key principles for good governance:

- Clarity of the regulator’s role
- Appropriate degree of independence
- Decision-making and the governing body’s structure
- Accountability and transparency
- Engagement with regulated entities and the public
- Funding sources.

The governance arrangements provided for the VTD are assessed against these principles in the next section.

8.2.1. Role clarity

Role clarity is essential for a regulator to understand and fulfill its role effectively. The objectives of the legislation establishing a regulatory scheme, and the purpose of the regulator in the scheme, should be clear to its staff, regulated entities and the community. The most transparent and publicly accessible way to make this role clear is to specify a regulator’s objectives, functions and associated powers in legislation.

Objectives

The ‘Victorian Taxi Directorate’ is not referred to in any transport Acts or regulations. As the VTD is not a statutory body, it does not have statutory objectives explicitly assigned to it. However, the VTD has very high-level objectives set for it under the *Transport Integration Act 2010* (TIA).

The DOT and the Secretary are included as ‘transport bodies’ under the TIA. All transport bodies must have regard to the vision statement, the transport system objectives and decision-making principles set out in the Act. As an administrative unit of the DOT, the VTD must also have regard to these objectives and principles.¹⁵

At the more detailed level of industry regulation, which is provided for by the *Transport (Compliance and Miscellaneous) Act 1983*, there are no specific objectives set for the VTD. The Act also has minimal provisions relating to the objectives of the regulatory regime it establishes. No legislative objective is set for the taxi and hire car licensing regimes established under the Act. However, as noted in chapter 7, the Act does provide objectives for the taxi industry and driver accreditation schemes.¹⁶

The DOT does not publish objectives for the VTD in the DOT’s annual report or on its website.

The VTD sets out business objectives in its *Business Plan* for 2011/2012:

- To improve the quality of service experienced by taxi and hire car users
- To effectively manage budgets and deliver value for money for public investment
- To strengthen key stakeholder relationships
- To continue to build a collaborative, agile, and resilient team and mobilise the VTD’s workforce to maximise skills, knowledge and opportunity

¹³ Fare-setting and the fare structure are discussed in chapter 20

¹⁴ Department of Premier and Cabinet (2010), *Improving the Governance of Regulators: Principles and Guidelines*, Victorian Government, Melbourne

¹⁵ These objectives and principles are set out in Appendix C

¹⁶ See sections 7.2.2 and 7.2.3

- To deliver effective business outcomes supported by efficient business practices and systems
- To contribute to the Taxi Industry Inquiry
- To plan and position the VTD for a seamless transition to the TSC.¹⁷

Of these, only the first objective relates to the objectives of the regulatory scheme, but without defining what 'quality of service experienced by taxi and hire car users' might encompass.

The inquiry notes that the Government has addressed the lack of explicit statutory regulatory objectives for the taxi industry regulator in its announced reform arrangements for the new regulator, the TSC. The inquiry welcomes this move to clarify the role of the regulator.¹⁸

Functions

As the VTD is not recognised in transport legislation, it also does not have explicit statutory functions. The VTD obtains its functions and powers through delegation from the Secretary. The delegation by the Secretary was executed in mid-2011 and replaced the previous delegation from the Director of Public Transport. The VTD also administers government policies, such as the Multi Purpose Taxi Program (MPTP) and other ancillary activities under direction from the DOT and the Minister.

The VTD's major functions in practice, and the legislative provisions to which they relate, are summarised in Table 8.1.

The VTD also undertakes a number of miscellaneous activities related to these functions, such as maintaining a securities register for licences and authorising persons to trade in taxi-cab licences.

Table 8.1 Functions of the VTD

Function	Source
Administration and enforcement of the driver accreditation scheme to ensure that drivers provide services that are consistent with the public care objective set out in section 164 of the Act	Div 6 of Part VI, <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations
Administration and enforcement of an industry accreditation scheme to provide a chain of responsibility across industry participants (operators, licence holders and NSPs) for the provision of taxi services	Div 4 of Part VI, <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations
Commercial passenger vehicle licensing (taxi and hire car), including licence issue, transfer and assignment (taxis only), vehicle substitution and ensuring vehicles used as commercial passenger vehicles are properly licensed	Div 5 of Part VI, <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations
Compliance and enforcement activities (such as ensuring vehicles meet the relevant standards prior to initial licensing and on the road)	Div 4, 5 & 6 of Part VI, <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations
Approval of equipment for use in taxis and standards for taxis and hire cars	Div 5 of Part VI, <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations
Administration of the scheme for authorising driving instructors under the <i>Road Safety Act 1986</i>	<i>Road Safety Act 1986 & Road Safety (Driving Instructors) Regulations 2010</i>
Administration of the Multi Purpose Taxi Program subsidy scheme (introduced in 1983) and a country wheelchair accessible taxi subsidy	None
Liaising with the taxi and hire car industry and the general public on complaints and other matters	None
Operational policy and reviewing regulations	None

¹⁷ The VTD has only been required to draft a business plan from 2005/2006 onwards. Prior to this, the VTD operated without any stated business objectives or corporate plan

¹⁸ Further observations on the objectives for the TSC are made in chapter 22

Policy function

A significant issue in ensuring clarity of the role of a regulator is clarity in assigning responsibility for functions that are commonly known as 'strategic policy' and 'operational policy'. Strategic policy – providing policy advice to the Minister on the broader subject matters to which the regulatory scheme relates – is commonly held to be most appropriately the preserve of the Minister's department. On the other hand, operational policy – developing detailed policies and procedures for regulatory operations to implement the Minister's higher-level policy decisions – is the responsibility of the regulator.

The primary rationale for the separation of these functions is to avoid circumstances where advice may be biased toward regulation over other potential solutions because the provider of advice has a vested interest in promoting and/or extending regulation. Section 33(2) of the TIA specifies that the DOT has the lead in all strategic policy, advice and legislation functions relating to the transport system and related matters, other than road safety. However, in the current circumstances of the VTD being a unit of the DOT, this provision does not add clarity.

The VTD has indicated that its operational policy role encompasses:

- Providing advice to the DOT on issues that may require policy and legislative change
- Developing and approving licence conditions and variations and fare implementation
- Responding to industry reviews (such as the Taxi Industry Inquiry)
- Contributing to development of policy on licence issues (such as the Greater Melbourne Taxi Licence Release (GMTLR) and Peak Service Taxis)
- Reviewing and setting vehicle standards (in consultation with VicRoads) and disability standards issued by the Attorney General under the *Disability Discrimination Act 1992* (Commonwealth)
- Developing standards for training of drivers, operators and driving instructors
- Liaising with industry, government and interstate regulators.

The inquiry understands that in the past the VTD had a broad role in advising government on policy relating to the taxi and hire car industry. It is not clear to the inquiry where the actual performance of this strategic policy role is located now. Having the regulator as a unit of the DOT blurs the delineation of functions and results in the regulated industry being unclear about whether the regulator is making policy in addition to implementing it. The inquiry understands that the strategic policy role has been separated from the VTD and transferred elsewhere within the DOT, but it is unclear whether there is a common understanding across the DOT and the regulated industry about performance of the role.

Non-regulatory functions

Where a regulator has a range of functions, these must be complementary and not potentially in conflict. This means that the performance of one function should not limit, or appear to compromise, the regulator's ability to fulfill its other functions (including its core regulatory function).

The VTD currently has a major non-regulatory function in administering the MPTP.¹⁹ With the program having 155,000 members statewide, this is a very significant undertaking for the VTD.

Combining functions (such as the administration of the MPTP) that allocate funding to external entities with the work of setting regulatory standards that apply to these same entities may not necessarily present a conflict. Combining both functions can assist in making informed trade-offs between regulatory standards and the implications for service supply and relationships with service providers. The risk of conflict between functions can be mitigated by a high level of transparency of arrangements for the resolution of conflicts to ensure that any compromises made between demands are consistent with community priorities.

Another consideration where a non-regulatory function is allocated to an existing regulator is that, even if the function is not in conflict with regulatory functions, it is likely to be competing for the regulator's scarce resources. This raises the risk that there may not be adequate resources and management attention given to regulatory tasks. The rationale and evidence behind a regulator's decisions as to the allocation of resources should be clearly set out with demonstrated links to the regulator's objectives. This is difficult for the VTD in the absence of explicit objectives.

¹⁹ Details of the MPTP are set out in chapter 15

How well is the role of the VTD understood by industry and taxi users?

Perhaps unsurprisingly, the inquiry has found significant divergence in awareness of the existence and role of the VTD between the industry and the general public. Taxi and hire car licence holders and operators appear to have a clear understanding that the VTD is the primary regulator for their industry. Some licence holders and operators suggest that the VTD could be more proactive in communicating and working with industry when changes occur that affect them.

There is some understanding from taxi users and advocacy groups that the VTD is the regulator for the Victorian taxi industry. However, disability advocacy groups told the inquiry that passengers would benefit from better promotion by the VTD about who it is, what it is responsible for and how it can be contacted.²⁰

It appears that there is poor awareness among the general public about the existence of the VTD and its role. Where and how complaints regarding taxi and hire car services are dealt with is particularly problematic: a large proportion of consumers do not know where or how to lodge complaints. Surveys conducted on behalf of the inquiry found that about 39 per cent of those surveyed hold 'government' accountable for ensuring the delivery of high quality taxi services in Victoria. Of this 39 per cent, 12 per cent identified the VTD as responsible for delivering taxi services. Taxi companies were identified by 23 per cent as being responsible for delivering high quality taxi services, while 17 per cent did not know who was responsible.²¹

Inquiry finding

- ➔ The role of the VTD lacks clarity. It does not have any statutory objectives or functions as an organisational entity and the objectives implied in the functions delegated to it by the Secretary of the DOT are uncertain and open to wide interpretation.

8.2.2. Degree of independence

The integrity of a regulator can be protected through its external governance arrangements. A regulator's decisions and activities should be objective, impartial, consistent and expert. Both the entities it regulates and political influences can pose real and perceived risks to a regulator's integrity. Establishing the regulator with a degree of independence from those it regulates and from government can provide greater confidence that decisions are impartial.

Independence is best regarded as a continuum with the 'least independent' end being a regulator that is an administrative unit of a department with only delegated functions; and the 'most independent' end being a statutory authority with legislated decision-making powers that directly employs its own staff and has prescribed conditions of tenure, explicit restrictions on Ministerial direction and transparent funding arrangements.

It is clear that the VTD sits at the 'least independent' end of this continuum.

The taxi industry regulator specified in the *Transport (Compliance and Miscellaneous) Act 1983*, the Secretary of the DOT, has delegated his regulatory functions and powers to the VTD. By virtue of the Secretary being subject to the general and specific direction and control of the Minister under section 38(2) of the TIA, the VTD's regulatory operations are also potentially subject to specific Ministerial direction without any requirement to make such direction public.

The inquiry notes that the Government's announced changes to the current arrangements include a more independent governance structure for the new regulator than provided for the VTD. The inquiry welcomes this move.²²

Inquiry finding

- ➔ The VTD lacks the appropriate degree of independence. A regulator that is more independent than the VTD is appropriate for the purpose of regulating the taxi industry.

²⁰ Victorian Equal Opportunity & Human Rights Commission, Submission to the Taxi Industry Inquiry, p.8

²¹ Ipsos Social Research Institute (2012), Op. Cit.

²² Further observations on the independence of the TSC are set out in chapter 22

8.2.3. Decision-making and governing body structure

The appropriate governing body structure for a regulator should be determined by the nature of the regulated activities and the regulation being administered, including its level of risk, degree of discretion, level of strategic oversight required and the importance of consistency over time.²³ As with the degree of independence, there is no single governing body structure that is necessarily appropriate for all regulators. The choice of appropriate structure will be informed by the type of decision-making required and the governing body structure that best fits that.

Current decision-making in the taxi industry regulatory scheme is characterised by a multi-layered structure of decision-making by individuals – whether by the Minister, in matters reserved to him, or a staff member of the VTD (or another government body such as VicRoads) to whom day-to-day powers have been delegated by the Secretary. Major regulatory decisions also may receive input and/or approval from a number of sources within the DOT, including the General Manager of the VTD and the Deputy General Counsel of DOT Legal. This structure appears to be cumbersome and involve time-consuming processes. While it provides some checks and balances in decision-making, it hinders the development of an agile and responsive regulator.

In addition, the discrepancy between the nominal role of the Secretary as decision-maker in the *Transport (Compliance and Miscellaneous) Act 1983* and the actual practices followed do not promote transparency in the scheme's governance arrangements. Industry participants and others trying to identify from public sources who is responsible for making decisions are likely to be confused by references to the VTD, the DOT, the licensing authority, the Secretary and the Minister.

While the VTD is the primary regulator in practice, a component of licensing activity is carried out under delegation by staff of VicRoads. The assignment of decision-making within a single regulatory scheme to another agency raises a question as to whether mechanisms are in place to ensure consistency and coherence across decision-making and the effectiveness of these mechanisms.²⁴

Governance structure and regulatory capture

'Regulatory capture' may occur where the regulator is unduly influenced by, or acts in, the interests of regulated entities or other interest groups over time. Capture occurs when officials inappropriately identify with the interests of a client or industry.²⁵ The regulator then makes decisions in favour of the private interests of the regulated industry or individual players in that industry, rather than in the public interest.

Regulatory capture can also be more subtle and occur through a regulator's proximity to the day-to-day influences of the political process. Many jurisdictions aim to reduce this influence by creating regulatory institutions that are independent of the executive branch of government.²⁶

Some regulatory structures are more prone to capture than others. In the case of an industry-specific regulator where the regulator is a unit of a department managed by an individual executive, such as the VTD, the risk of capture is likely to be higher compared to a regulator run by a multi-member body, such as a commission. It is more difficult for regulated entities to exercise sustained influence over several people with diverse backgrounds, than over one person. A board or commission structure also provides checks and balances through exposing members' views to the scrutiny of peers.

Industry capture is often hard to prove (unless it progresses to significant misconduct), but the perception of regulatory capture can undermine the community's trust in public sector administration and in the fair application of regulatory processes applied in the public interest.²⁷

The inquiry considers that the present decision-making structure of the taxi and hire car regulatory regime carries some risk of capture by the industry. The single decision maker (the General Manager of the VTD) is vested with a substantial degree of decision-making power, but the exercise of this power is not transparent or externally accountable (other than within the DOT). With very few requirements to make public its decision-making processes, it is difficult to ascertain if the VTD is making objective decisions. The location of the VTD within the department may also make it susceptible to capture through its proximity to the political process.

²³ Department of Premier and Cabinet (2010), Op. Cit., p.36

²⁴ Delegations to VicRoads employees relate to sections 166(1), 167(1) and 169 of the *Transport (Compliance and Miscellaneous) Act 1983* and include: accredit person to drive commercial passenger vehicle or private bus; require applicants to undertake specified training; hold specified qualifications and pass specified tests; grant applications for the issue or renewal of driver accreditation; form a view as to suitability of drivers for accreditation; and impose conditions on driver accreditation on issue or renewal

²⁵ Independent Commission Against Corruption (1999), *Strategies for Preventing Corruption in Government Regulatory Functions*, Sydney, NSW, p.10

²⁶ See Organisation for Economic Cooperation and Development (OECD) (2001), *The Implementation and the Effects of Regulatory Reform: Past Experience and Current Issues*, OECD *Economic Studies*, No. 32, 2001, p.63

²⁷ Adams, Gary; Hayes, Sharon; Weiarter, Stuart; and Boyd, John (2007), 'Regulatory Capture: Managing the Risk', prepared for Australian Public Sector – Anti-Corruption Conference – Sydney NSW, ICE Australia, p.7

It is important to note in this regard that there is a significant difference between an existing institutional arrangement being prone to industry capture and the individuals operating in that structure actually being captured. There are some longstanding decision-making practices of the VTD (for example, consulting the VTA on licence applications being considered under the public interest test for country and regional Victoria) that give rise to concerns about the degree of risk of capture. However the inquiry has not found issues of serious and/or widespread capture, in the practices of the VTD today, such as misconduct or repeatedly biased decisions favouring individual regulated entities.

The inquiry considers that the current decision-making and governance structure for the regulator is not necessarily the 'best fit' with the nature of the regulated activities and the regulation being administered. The inquiry notes that the Government is proposing a multi-member commission model for the new regulator and considers this to be a highly positive step.²⁸

Inquiry findings

- ➔ The current decision-making and governance structure for the VTD is not necessarily the 'best fit' for the regulation of the taxi and hire car industry.
- ➔ The inquiry found no issues of serious or widespread regulatory capture in the practices of the VTD today, but notes that the regulator's governance structure and some longstanding decision-making practices may place it at greater risk of capture.

8.2.4. Accountability and transparency

Accountability and transparency are essential for the good governance of a regulator. Accountability considerations include the mechanisms that hold a regulator to account to government, regulated entities and the public for the regulator's overall performance against its objectives, decision-making that affects the interests of regulated entities and the public, and the management of operations and internal probity.

Transparency is concerned with the ability of regulated entities and the public to access detailed information about the objectives of the regulation and how it is delivered by the regulator.

Public reporting by the regulator on its performance is integral to accountability and transparency. Transparency and accountability are inextricably linked, as transparency facilitates accountability through the provision of information necessary for the Minister, regulated entities and the public to hold the regulator to account.

Accountability for taxi regulation

The legislative framework for taxi regulation does not provide a specific mechanism for accountability of the regulator. There are no particular requirements on the licensing authority in the *Transport (Compliance and Miscellaneous) Act 1983* to publish information or report on its operations or outcomes from its activities. The only reporting requirement in relation to taxi regulation in the Act is the requirement on the ESC to report to the Minister on its investigations into licence fees or taxi fares or hiring rates and for such a report to be made public.

In practice, the only mechanism of accountability for the VTD is through the *internal* management structure of the DOT whereby the General Manager of the VTD reports to the Secretary. In turn, the Secretary has a general accountability to the Minister under the *Public Administration Act 2004*.

The adequacy of the accountability system for the VTD can be assessed by reference to several indicators. These are set out in Table 8.2.

The inquiry concludes that confidence of the public and the regulated industry in the VTD being fully accountable for its performance is unlikely to be sustained by the limited accountability mechanisms currently in place for the VTD.

²⁸ Further discussion about the governance arrangements for the TSC is contained in chapter 22

Table 8.2 Assessment of accountability framework for the VTD

Accountability indicator	Exists in taxi regulation?	Comment
Is there a legislative requirement for the regulator to produce a public annual report?	No	DOT publishes an annual report.
Does the regulator publish an annual plan that sets out its priorities for the year ahead and how it intends to achieve its objectives?	No	
Is the level of public reporting on its activities and outcomes the same as would be required if it were an independent regulator?	No	There is one reference to the VTD in the DOT 2010/11 Annual Report. The cost of the VTD's operations is not discernible from the DOT financial statements.
Do the published performance indicators provide sufficient and clear information to enable meaningful assessment of the regulator's performance across the range of its responsibilities?	No	<p>All but one of the VTD's published measures are activity or output measures.</p> <p>Some relate to the non-regulatory function of administering a subsidy program.</p> <p>Only measures for the current year and the target for that year are published. It is not possible to discern any trends in measures over time. Performance measures published in the 2010/11 DOT Annual Report are:</p> <ul style="list-style-type: none"> • Number of calls to the VTD call centre • Number of taxi and hire vehicle inspections • Number of taxi driver accreditation requests processed • 'Customer satisfaction index' score for taxi services • Number of taxi and hire vehicle complaints assessed • Proportion of inspected taxi and hire vehicles conforming to quality standards • Proportion of taxi and hire vehicle complaints investigated and closed within 45 days • MPTP taxi trips • Proportion of MPTP applications assessed and completed within 10 working days. • In addition, the DOT publishes the following data on compliance outcomes on its website: • Number of official warnings • Number of notices of unroadworthiness • Number of rectification notices • Number of infringement notices.
Is there an external appeals mechanism available for the review of significant regulatory decisions?	Yes	<p>Certain regulatory decisions made under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> can be appealed to the VCAT for administrative review. For example:</p> <ul style="list-style-type: none"> • refusals of driver and industry accreditation and 'red' actions taken against accredited industry members; and • suspensions or cancellations of driver accreditation <p>can be referred to the VCAT for a merits review of the decision.</p> <p>Similarly, decisions made in relation to driver instructor authorities can be appealed to the Magistrates Court in certain circumstances.</p>

Transparency of taxi regulation

Transparency and openness, through the communication of full, accurate and clear information, provides the basis for regulated entities to understand their obligations and for all interested stakeholders to assess a regulator's performance against the policy objectives and expectations.

The TIA recognises a 'principle of transparency' in the following terms in section 21:

The principle of transparency means members of the public should have access to reliable and relevant information in appropriate forms to facilitate a good understanding of transport issues and the process by which decisions in relation to the transport system are made.

The inquiry supports the application of such a principle in the context of taxi industry regulation. However, the TIA does not provide any further guidance as to who should apply this principle, in what circumstances it should apply and how it should be applied. The *Transport (Compliance and Miscellaneous) Act 1983* also does not provide any guidance regarding the application of this principle by the licensing authority in the context of taxi regulation. The inquiry considers that the regulatory regime for the taxi and hire car industry does not provide sufficiently for transparent operations by the regulator.

Even where a legislative scheme does not specifically impose transparency requirements on the regulator, the regulator can implement good practices to provide transparency, such as releasing guidance resources for regulated entities on the way decisions are taken and publishing information on operational policies, processes, decisions and the costs of regulation.²⁹ The inquiry considers that the VTD has fallen short of good practice in this regard, although improvements have occurred in recent years.

The inquiry has received a number of submissions commenting on the lack of transparency and accountability of the VTD. For example, the Federation of Community Legal Centres Victoria comments in its submission that there is a need for much greater transparency and accountability on the part of the taxi industry and the regulator. The Federation goes on to conclude in regard to the new regulator:

The new Taxi Services Commission must be an efficient, transparent and accountable regulatory body, with an explicit duty to act in the interests of all participants in the taxi industry.³⁰

The announced post-inquiry reforms incorporate mechanisms that will improve the regulator's accountability and transparency. The inquiry welcomes these changes.³¹

Inquiry finding

→ The current governance arrangements for the industry regulator do not promote transparency and accountability, and are confusing for industry and consumers.

8.2.5. Engagement

Effective engagement with regulated parties and other stakeholders can contribute to improving good governance and building a shared commitment to regulatory objectives between the regulator, industry and the wider community. It can also provide insights from industry participants and the community on strategies to influence behaviour or early warning on developments that may warrant a change in the regulation or regulatory practice.

While observing that prescribing an engagement function or arrangement in legislation may be unnecessarily rigid, the inquiry notes that there is no engagement mechanism currently in taxi industry regulation.

Since 2008, the VTD has re-activated a number of informal mechanisms for liaison and communication with industry participants, namely drivers, operators and network service providers (NSPs). The VTD also convenes meetings with disability service providers and advocacy groups, such as Scope and the Victorian Council of Social Service (VCOSS). In particular, the inquiry commends the VTD for establishing the Disabled Persons Taxi Advisory Committee to address a gap in formal consultative arrangements.

8.2.6. Funding

In order for regulators to be effective and to implement good governance and good regulatory practice, adequate levels of funding and resourcing are vital. On the other hand, regulators need to ensure the costs of their operations are minimised so that budgets align with efficient costs.

29 Eijffinger, S. C. W. and Geraats, P. M. (2002), 'How Transparent Are Central Banks?', Discussion paper No. 3188, London, Centre for Economic Policy Research

30 Federation of Community Legal Centres (Victoria), Submission to the Taxi Industry Inquiry, SS105, p.1 and p.9

31 Further discussion about the accountability and transparency of the new regulator is contained in chapter 22

The governance issues arising in funding are:

- Transparency – to inform regulated entities and the public of the amount and source(s) of its funding
- Accountability – to hold the regulator to account for the efficiency of its activities and probity of expenditures
- Independence – to identify attempts to influence regulatory practice by political or industry interests.

The cost of the VTD's operations is not transparent. Neither the DOT nor the VTD publishes financial statements for the VTD: instead, the VTD's expenditure and revenues are incorporated into aggregated expenditures and revenues in DOT financial statements. The cost of VTD operations is not discernible in the financial statements published in the DOT's annual reports.³²

The VTD is accountable for its expenditures through the internal financial management and reporting systems of the DOT, as is any other administrative unit within the department. The inquiry did not examine these systems.

The inquiry did obtain high level expenditure and revenue data from the VTD. Funding for the VTD is sourced from government general revenue. The cost of operating the VTD in 2010/11 was \$34.7 million – a significant increase from 2006/07 when its annual expenditure was \$11.9 million. This reflects an approximate doubling of staffing levels (associated with the implementation of the industry and driver accreditation schemes and other initiatives), the introduction of the Safe Taxi program and capital expenditure for improving information technology systems.

The VTD imposes annual fees for taxi peak service licences, special purpose vehicle licences, hire car licences and MPTP cards. In 2010/11, these fees and other minor charges raised \$6.1 million, all of which is returned to consolidated government revenue. The VTD receives no direct or hypothecated funds from regulatory charges on the industry.³³

Inquiry finding

- The absence of publicly available, outcomes-focused performance measures and specific objectives against which performance can be assessed, together with the absence of published information on the costs of the regulator's operations, is a deficiency in current governance arrangements for the VTD.

³² The cost of the MPTP within DOT expenditures is separately identified in the notes to the DOT's financial statements

³³ Alternative funding models are discussed in chapter 22

8.3. Regulatory practice and performance

As already noted, the VTD operates within the constraints of an inadequate governance framework. At the same time, it is required to interpret, administer and enforce a complex, multi-layered and overlapping regulatory regime. While the regime is highly prescriptive, the VTD has some discretion in the approaches and practices it adopts in administering the regulations.

This section considers how the VTD approaches and performs its main functions in practice, the focus it has adopted and how it has contributed to the effectiveness and outcomes of the taxi and hire car industry regulatory scheme.

Any attempt to assess the VTD's approach and practices immediately invites the question: assessment against what criteria? There is no whole-of-Victorian-Government guidance on implementing regulation as is the case with the *Victorian Guide to Regulation* in relation to developing and making regulation.³⁴ This means that implementation practices are not consistent across regulators and that 'best practice' is not necessarily well understood among regulators. However, there is considerable Australian and international material available on good regulatory practices.³⁵ There is sufficiently consistent guidance in this material, and acceptance of it by agencies promoting regulatory reform (such as the Victorian Competition and Efficiency Commission³⁶), for the material to be regarded as a coherent body of good practice knowledge. The inquiry draws on these widely-accepted indicators of good regulatory practice as the assessment criteria for its examination of the VTD's performance.

³⁴ Government of Victoria (2011), *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne

³⁵ Examples include: Australian National Audit Office (2007), *Administering Regulation: Better Practice Guide*. Canberra; National Audit Office (UK) (2007), *Hampton Implementation reviews: Guidance for Review Teams*, London; BERR and National Audit Office (2008), *Effective Inspection and Enforcement: implementing the Hampton vision in national regulators*, Phase 2 Guidance for Review Teams, London; Better Regulation Executive (2009), *Code of Practice on Guidance on Regulation*, United Kingdom; Consumer Affairs Victoria, (2008), *Better Business Regulation. Research Paper no. 14*; Melbourne; Macrory, R. (November 2006), *Regulatory Justice: Making Sanctions Effective*; Standards Australia, *Customer satisfaction - Guidelines for complaints handling in organisations*, AS ISO 10002-2006, Canberra; Commonwealth Ombudsman (2009), *Better Practice Guide to Complaint Handling*, Canberra

³⁶ See Victorian Competition and Efficiency Commission (VCEC) (2011), *An Inquiry into Victoria's regulatory framework: Strengthening Foundations for the Next Decade - Final Report*, Melbourne

The inquiry has examined information, data and submissions provided by the VTD and discussed various aspects of the regulator's practices and operations with VTD officers. The focus of this work has been around the key licensing and accreditation and compliance monitoring functions that account for the majority of the VTD's resource allocation. Comments on the VTD's implementation of regulation from industry participants and other stakeholders have also been considered by the inquiry. While not comprising an exhaustive study of the VTD's practices across the entire range of its functions, the information available to the inquiry is sufficient to make some general observations on the VTD's regulatory approach and key aspects of current practice.

The remainder of this chapter sets out key points of good practice in relation to five core regulatory functions and analyses the VTD's approach and practices in relation to each of these functions:

- Informing and educating regulated entities and the public about the regulatory scheme and managing relationships within the scheme
- Licensing and accrediting industry participants
- Receiving and responding to inquiries/complaints about regulated entities
- Monitoring the compliance of regulated entities.

The VTD's performance in reducing the regulatory burden on industry, coordinating with other regulators and conducting its non-regulatory functions is also considered.

Table 8.7 at the end of this chapter summarises the elements of good practice for each of these core functions and reflects the criteria the inquiry has applied in assessing the VTD's performance.

VTD organisation and resource allocation

Total employment by the VTD is 149 full-time equivalent positions. The VTD's organisational structure roughly aligns with its generic core functions. As tends to be common in Victorian licence-based regulatory schemes, the bulk of the regulator's staff resources are allocated to licensing processes (26.2 per cent in the VTD) and compliance monitoring and enforcement activities (47.7 per cent). In contrast, the more strategic function of operational policy has a very small allocation of resources (2.7 per cent of staff). More unusually, a significant proportion of resources (11.4 per cent) is allocated to a non-regulatory function – administration of the MPTP.

8.3.1. The VTD's general approach

A 'broad-brush' characterisation of a best practice general approach to regulating is that it is:

- Focused on outcomes – the regulator has a clear sense of the outcomes it is trying to achieve and its performance is measurable and transparent
- Risk-based – comprehensive risk assessment informs the regulator's strategies and allocation of operational resources.

The VTD's general approach does not meet this description. Given the combination of a complex and prescriptive legislative framework and inadequate governance arrangements, it is not surprising that the VTD's general approach is weighted towards process, activities and inputs rather than outcomes.

However, the VTD still has some discretion in performing a number of its functions and conducting its activities. The inquiry's view is that the VTD falls short of good practice in how it goes about some aspects of its business. While noting the constraints of the regulatory framework within which the VTD operates – and observing some recent improvements in practices – the inquiry still considers that there are a number of areas where improvements can be made to the approach, practices and performance of the regulator.

Inquiry finding

- ➔ The VTD is operating within an inadequate legislative framework that lacks clear objectives and fails to provide appropriate operational guidance to the regulator. Until recently, the VTD had not used its operational discretion to implement the basic elements of good practice in key functions.

8.3.2. Informing regulated entities and managing relationships

This function encompasses the regulator's interactions with regulated entities, other stakeholders and the public. Its primary purpose is to make compliance with regulation easier and less costly, and to maximise overall levels of compliance.

Information provision

The most fundamental obligation on a regulator is to provide information and guidance to individuals and businesses on what is required for them to comply with regulation and how the regulator will assess compliance.

The VTD website provides reasonably extensive information on the regulatory requirements for various participants in the commercial passenger vehicle industry: taxi and hire car drivers, driving instructors, taxi operators, NSPs and licence holders. The necessary forms and associated explanatory material and guidance are provided for downloading. For example, the website sets out a '9-step' process for obtaining taxi driver accreditation, with each step containing links to the required forms and associated explanatory documentation. The inquiry did not investigate how readily accessed and understood this information is to the various target audiences.

The VTD publishes very little in the way of rules, policies and guidelines explaining how it administers the regulations relevant to the taxi and hire car industry. This is somewhat surprising given the complexity and prescriptive nature of the regulations.³⁷ The absence of published information does not mean that the VTD has no documented information of this kind. Most organisational divisions of the VTD have established policies and procedures, but these are generally not available to the public. However, the VTD recently published a well-developed procedure regarding complaints handling, which sets out target key performance indicators for responding to complaints and escalating them internally.

The VTD's submission to the inquiry raises questions about the effectiveness of the VTD's efforts in information provision and education. The VTD notes that their Audit Team, whose primary role is monitoring compliance with the Business and Service Standards (B&SS) set by the Minister,³⁸ devotes a significant proportion of its time and resources to education. However, despite this effort, the taxi industry accreditation scheme has not delivered the levels of accountability that were originally envisaged. The VTD identifies the problems with the B&SS as arising in part from "a poor understanding of the standards by industry participants". The VTD states that while "applicants for industry accreditation are made aware of the B&SS during their application process...follow up contact with operators through VTD activities has revealed a poor level of familiarity with the B&SS".³⁹

This suggests that the VTD's information and education efforts in implementing the industry accreditation scheme have not been successful in ensuring that taxi operators understand and comply with their obligations under the scheme.

Stakeholder engagement

Regulators have to deal with a diversity of stakeholder groups. These groups require a variety of tailored strategies and mechanisms to achieve the benefits of effective engagement.

While well-managed stakeholder engagement can provide substantial benefits for the regulator, stakeholder relationships also carry some risk. The primary risk is regulatory capture and ultimately compromised integrity of the regulatory regime. The regulator must manage relationships so as to ensure that it retains its capacity and willingness to exercise its regulatory authority independently and objectively in the public interest.

The VTD has an organisational unit specifically responsible for managing engagement and communications with the industry, stakeholders and the general public on issues such as taxi regulations, changes in government policy and government initiatives. This unit also issues media releases, manages the VTD website and correspondence, and issues industry publications.⁴⁰ The unit works to an internal 'Stakeholder Engagement Plan'. This document is not publicly available.

The VTD Call Centre is part of this unit and is a single point of contact receiving all incoming calls through a 1800 toll-free number. The centre directs inquiries received from industry stakeholders and the general public to the relevant section of the VTD.

As noted in section 8.2.5, in recent years the VTD has established mechanisms for communicating with the taxi industry and has established three groups for taxi drivers, operators and fleets. The aim of these groups is to strengthen communication channels between the VTD and the taxi industry, as described by the VTD on its website:

These groups allow relevant taxi industry participants to effectively pass on information and concerns through to their representatives who can raise these matters with the Victorian Taxi Directorate.

*Regular, two-way communication with taxi drivers is important to the Victorian Government, to gain feedback and help develop the policies and initiatives it is rolling out.*⁴¹

³⁷ See section 7.3.1 for some examples of the complexities of the existing regulations and how they potentially overlap

³⁸ See section 7.2.2 for further detail on these standards

³⁹ VTA, Op. Cit., pp.24-25

⁴⁰ VTD Business Plan 2011-12, provided to the inquiry by the Department of Transport, p.9

⁴¹ VTD website, accessed 4 April 2012 at www.transport.vic.gov.au/taxis/taxi-owners-operators-and-nsp/taxi-operator-advisory-group and www.transport.vic.gov.au/taxis/taxis-drivers/taxi-drivers-advisory-group

The groups were established in 2008 and have met somewhat sporadically, but in recent months have been establishing a working agenda of issues. While their purpose is not entirely clear, the groups appear to have been established to allow the industry to voice its concerns over both the industry's future directions and regulatory matters. A higher level group drawn from these groups could constitute a more formal consultative body.

The VTD also convenes meetings with disability groups, such as Scope and the VCOSS, especially through the Disabled Persons Taxi Advisory Committee. Positive results are emerging from this committee and the VTD's efforts to improve taxi services for people with a disability should be acknowledged.

The VTD's relationships with other regulators and Victorian Government agencies are discussed in the section on 'Regulatory Coordination' later in this chapter.

Observations on engagement and consultation practices

While the potential benefits of these re-activated consultation arrangements are yet to be realised, the inquiry considers them to be an improvement in the regulator's previous practices. Some positive results are emerging: for example, recent changes to the guidelines for organisations providing driver training and driver fatigue issues. The inquiry makes some observations on these arrangements:

- The objectives of the various groups, their terms of reference and the roles and obligations of the parties may not be sufficiently clear and understood by all participants. A detailed published engagement strategy may assist understanding of how these groups fit into the regulatory scheme.
- Greater transparency in the consultation process and outcomes achieved – such as publishing notices of meetings, agendas and minutes – may aid in building the credibility of the regulator's decisions, particularly around the implementation of guidelines or policies that are the subject of consultation.⁴²
- Other industry participants and broader stakeholders that are not consulted through formal means may benefit from being included in such a process. The most notable absences from the current arrangements are networks, hire car operators and consumers.⁴³

Inquiry finding

- The VTD has made improvements in its consultation arrangements in recent years and its efforts to engage with disability groups and taxi users are commendable. However, further improvement and modernisation of engagement structures are needed to build up trust with industry participants and taxi users. Industry stakeholders in particular perceive the VTD to lack a consultative and collaborative approach.

8.3.3. Licensing and accreditation

This function encompasses the VTD's administrative processes and decision-making regarding applications for various commercial passenger vehicle licences and accreditation, and transfers and assignments of taxi licences. The primary purpose of this function is to mitigate and manage risks to achieve the policy objectives of regulation by denying entry to the industry to individuals and businesses assessed as not meeting regulatory requirements.

Administering the taxi and hire car licensing and accreditation provisions and the associated compliance and enforcement activities (Part 6 of the *Transport (Compliance and Miscellaneous) Act 1983*), comprises the bulk of the work carried out by the VTD. The administration of licensing and accreditation is heavily influenced by the cumulative amendment of taxi and hire car legislation over many years (as discussed in Chapter 7).

Licensing

The licensing function within VTD is responsible for assessing all commercial passenger vehicle licensing related matters, including new licence applications and existing licence assignments and transfers. The VTD generally grants licences for conventional taxis in the metropolitan area in accordance with the application processes and procedures determined by the Minister under section 1453A of the *Transport (Compliance and Miscellaneous) Act 1983*. For example, the Government decision in 2009 to release 530 new taxi licences in metropolitan Melbourne was implemented by the VTD through an open tender process.

The VTD also considers applications for conventional taxi, wheelchair accessible taxi (WAT) and hire car licences from individuals in country and regional areas, all of which are subject to a 'public interest test' under the Act.⁴⁴

⁴² The inquiry understands notices of meetings, agendas and minutes were published in the past, but the practice was discontinued

⁴³ The inquiry understands that work is underway within the VTD to consider how best to communicate with networks and consumers

⁴⁴ Licensing regulation and its impacts are discussed in chapter 10

The VTD processes approximately 100 licence transfers and assignments every month for conventional taxis, WATs and hire cars throughout Victoria. The VTD also collects and processes any annual licence fees that are due and payable by licence holders. While most of this fee collection is undertaken within the VTD, some invoicing is undertaken centrally within the DOT for larger transactions, such as payments relating to the GMTLR in 2010. High level data on licensing activities is provided in Table 8.3.

Table 8.3 VTD licensing activities

Activity	2006/07	2007/08	2008/09	2009/10	2010/11
Conventional taxi licences issued – regional and metropolitan (includes GMTLR and peak service licences)	99	100	77	29	200
WAT licences issued (includes WAT licences released under the GMTLR)	5	2	6	6	213
Hire car licences issued	81	72	29	8	52
Restricted hire vehicle licences issued	80	80	65	99	76
Special purpose vehicle licences issued	50	54	43	33	33
Total taxi and hire car assignments processed (regional and metropolitan)	1,481	1,245	1,253	1,469	1,249

Source: VTD

Observations on taxi licensing practice

The licence application assessment process typically involves the VTD attempting to assess the state of demand in a market. Generally, the data the VTD is able to obtain from the industry lacks the necessary information to do this with any certainty. The data is partial, historical and based on the demand existing operators are able to cover. It is not forward looking and does not address the possibility of unmet or latent demand. Obtaining the views of a few individuals or organisations as to perceived need is no substitute for allowing the market itself to demonstrate need.

The inquiry reviewed all applications for licences received by the VTD since 1 July 2006 to assess the VTD's practices under this important function. The inquiry's observations are summarised as follows:

1. Decision-making is not transparent

The VTD has not published an explicit licensing policy document to explain its approach to new licence applications and how it will apply the public interest test in section 143 of the *Transport (Compliance and Miscellaneous) Act 1983*. Its consideration of the legislative criteria is made on a case-by-case basis, and no particular emphasis appears to be given to any of the specific legislative criteria listed in the Act. The key factors in the recommendations made on applications by the VTD's case officers are often unclear. Furthermore, the VTD does not provide applicants with detailed documented reasons for decisions to refuse applications. Notifications of refusal decisions contain a non-specific reference to granting the application as 'not being in the public interest'.

While the VTD refers to the transport system objectives and decision-making principles outlined in the TIA, it is unclear exactly what impact these objectives and principles have on the VTD's decision-making or how the VTD sees these objectives and principles interacting with the public interest criteria outlined in the *Transport (Compliance and Miscellaneous) Act 1983*.⁴⁵

⁴⁵ A close reading of the transport system objectives and decision-making principles suggests that they are somewhat at odds with the orderly marketing philosophy underlying the application of the public interest test

The inquiry's view is that the application of the public interest test does little to enhance service availability and performance for users in country markets where alternative public transport options are also often severely constrained. The public interest test works in conjunction with zoning restrictions to limit competition and maintain the viability of existing operators, regardless of whether they are providing efficient services to customers.⁴⁶

2. Risk of compromising integrity of decision-making

The inquiry understands that in evaluating the arguments advanced by licence applicants, the VTD seeks the views of other taxi service providers along with the views of the local council and community organisations. Applicants are given an opportunity to respond to these views. Typically, the VTD will examine records of vehicle utilisation and MPTP use (in the case of WAT applications) in the zone, as well as population-to-licence ratios and changes in these over time. These are reasonable inquiries to make.

However, the inquiry understands that – as a matter of course – the VTD also seeks the views of the VTA on all applications that involve more than procedural matters. This practice is neither necessary nor desirable. First, there is no rationale justifying placing the industry association of NSPs⁴⁷ in the privileged position of receiving information on all entry attempts. The VTA is more likely to have an interest in maintaining an 'orderly' industry for the incumbents than in promoting competition between incumbents and encouraging innovation. Secondly, the practice (which may reflect the unquestioning continuation of long-established processes) risks – as a minimum – the perception of capture by the industry peak body in licensing decisions, in the absence of more transparent decision-making.

3. Use of licence conditions to impose general regulatory requirements

The *Transport (Compliance and Miscellaneous) Act 1983* empowers the VTD (as the delegated licensing authority) to attach conditions to any commercial passenger vehicle licence appropriate to the service to be provided as it thinks proper to impose in the public interest. The licence conditions that are attached to taxi licences vary depending upon the category of licence. The range of matters covered by licence conditions is quite wide and includes conditions covering zoning, taxi availability, fare setting, MPTP equipment and processing, security cameras, child restraints, age of vehicles, driver ID display, advertising on vehicles and vehicle performance data. Licence conditions can be varied at any time by the VTD. The VTD can also impose conditions on accreditations or restrict the scope of accreditations at any time. These conditions and restrictions can be varied or revoked by the licensing authority.⁴⁸ It is an offence not to comply with a condition or restriction.⁴⁹

The inquiry considers that the wide range and nature of licence conditions imposed by the VTD constitute general regulatory requirements that would be better applied through regulations, with the associated transparency and regulatory impact assessments required. Some conditions involve regulated entities incurring substantial costs in compliance and contribute to the overall compliance burden of the taxi industry. Conditions attached to individual licences should only relate to matters necessary for regulation in the specific circumstances of the licensee. Matters applying to all licensees should be included in regulations or even the authorising legislation.

4. Time consuming processes for decision-making

The process of reviewing licence applications is administratively cumbersome and time consuming. By the time all parties are contacted, evidence assembled and a report written it is often up to six months before an application is determined. In some cases, the process has taken twice as long. A more timely and transparent process would involve public notification of the application (for example, on the VTD website and in a local newspaper) and the publication of submissions and the VTD's determination.

⁴⁶ Further discussion on the public interest test is contained in chapter 10

⁴⁷ The VTA website states: 'To become a member of the VTA you need to be an accredited Network Service Provider'. Accessed 4 April 2012 at www.victaxi.com.au/about-us/membership.aspx

⁴⁸ Sections 133(1) and 133A *Transport (Compliance and Miscellaneous) Act 1983*

⁴⁹ Section 133B *Transport (Compliance and Miscellaneous) Act 1983*

Case study

An adverse impact on competition

In late 2006 there were 20 operational taxi-cab licences in a regional city in Victoria, including two WAT licences. All operators were affiliated with the one NSP in the city. An application from the operator of the WAT licences for a further licence was made to the VTD on 12 December 2006, with the operator seeking to improve service for existing and new wheelchair customers.

The application was opposed by a majority of other operators affiliated to the NSP who considered that further competition would erode their incomes and that any additional licence should be issued to the depot. At the time, the depot had a roster system that reduced the time the licensed vehicles were on the road. Letters of support for the application from existing users of WAT services and from some community organisations were provided. The application was refused largely, it appears, on the basis that the demand for the new licence was not proved and that it would be possible to convert one of the existing conventional licences (operated by other operators) to a WAT licence.

In 2009, following a successful challenge to the roster system by the Australian Competition and Consumer Commission, the NSP went into liquidation. Most operators then joined a new NSP and a few operators joined a smaller rival NSP. The regional city was now one of very few cities outside the Melbourne metropolitan area to have more than one NSP and the potential for direct competition between networks.

An application for a new WAT licence was made by a director and operator affiliated to the smaller rival NSP in November 2009. Prior to this, the NSP did not have a WAT licence and could not compete for WAT work. The application was opposed by most operators affiliated to the larger NSP, but generally supported by community groups. An application for another WAT licence was also made by the WAT operators attached to the larger NSP shortly after the initial application was submitted from the rival NSP. In June 2010, both applications for new WAT licences were approved.

Operators affiliated to the smaller NSP then applied for two further licences, a conventional licence and a WAT licence, in August 2010. The applicants claimed that the NSP was increasing its work relative to the larger NSP and the new licences would enhance further its competitive position. The applications were opposed by the VTA and operators belonging to the larger NSP. In addition, an accredited driver belonging to neither of the NSPs lodged an application for a conventional licence in October 2010. All three applications for new licences were refused.

Industry and driver accreditation

The VTD's industry and driver accreditation function is essentially concerned with assessing the suitability of individuals and organisations to operate within the taxi, hire car and bus industries. In considering applications for industry and driver accreditation (including applications for renewals or reinstatements), the VTD must follow the relevant process set out in the *Transport (Compliance and Miscellaneous) Act 1983*.⁵⁰

In relation to industry accreditation, the VTD assesses applications for the issue and renewal of industry accreditation for individuals and organisations that wish to either own or operate a taxi licence. The accreditation of NSPs is also covered by this scheme.⁵¹

In relation to driver accreditation, the VTD assesses applications for the issue and renewal of accreditation to drivers of commercial passenger vehicles, including taxis, hire cars and buses, and for the issue of driving instructor authorities in accordance with the *Road Safety Act 1986* and associated regulations.⁵² With approximately 50,000 accredited drivers in the taxi, hire car and bus industries and approximately 15,000 active taxi drivers, this represents a significant workload for the VTD (see Table 8.4).

⁵⁰ Sections 130 to 137E of the *Transport (Compliance and Miscellaneous) Act 1983* deal with the taxi industry accreditation scheme and sections 163 to 169Z of the Act cover driver accreditation

⁵¹ Details of the industry accreditation scheme are provided in section 7.2.2

⁵² Details of the driver accreditation scheme are provided in section 7.2.3

Table 8.4 VTD driver accreditation activities

Accreditation category	2006/07	2007/08	2008/09	2009/10	2010/11
Metro driver accreditations / certifications [Numbers are for applications as issue data is unavailable in an accurate format]	3,369	3,060	3,613	1,873	1,993 ⁵³
WAT driver accreditation endorsements [Data based on re-imbursements issued]	1,358	1,443	970	1,121	781
Bus and regional driver accreditations / certifications [Numbers are for applications as issue data is unavailable in an accurate format]	3,082	2,801	3,033	3,298	2,512
Driving instructor authorities issued (Total number issued as at 25 January 2012 was 3,542, of which 3,097 were current)	307	265	Data not available	Data not available	Data not available
Total	8,116	7,569	7,616	6,292	5,286

Source: VTD

Observations on accreditation practice

The accreditation schemes are relatively resource intensive. The VTD currently allocates about 42 staff to processing licensing and accreditation matters and managing a case assessment process. Despite this significant allocation of staff, there were around 400 cases in backlog in April 2011, up from 200 cases in 2008.

The resource intensiveness of licensing and accreditation matters arises from a combination of factors: the prescriptiveness of the requirements of the two schemes which, in turn, appears to have led the VTD to introduce a 'data matching program' (including contracting Victoria Police to undertake weekly checks on all active drivers for prescribed offences) and a case assessment process involving both VTD staff and DOT Legal staff. Both the data matching program and case assessments involve pre- and post-accreditation processes – that is, they both lead to decisions on the issue/refusal of new applications and renewals, and on compliance breaches by already-accredited industry participants and drivers.

Significant inefficiencies and inequities are generated by the current accreditation regime. The regulations are drafted in such a way that certain decisions (such as a mandatory cancellation of a person's driver accreditation for being convicted of a category 1 offence) can only be overturned by the Victorian Civil and Administrative Tribunal (VCAT). The VCAT has the power to set aside a decision if it is satisfied that, based on the criteria in the Act and the public care objective, it is appropriate to do so. The inquiry is aware of a number of cases that demonstrate the inflexibility and unfairness of the regime and the very limited discretion available to the VTD to overcome these shortcomings.

Most case assessment matters take around six to nine months to resolve. Some of this delay is caused by circumstances relating to the accredited person, such as criminal charges that have not been heard before the courts or waiting on advice from informants, but many cases are delayed by a lack of resources. The backlog of cases has created significant tension within the industry and with parties seeking accreditation as they are often restricted from working until a decision is made. VTD staff have received direct threats against them because of such delays, resulting in increased security being installed at the VTD offices.

⁵³ The decrease in metropolitan driver accreditations in 2009/10 and 2010/11 coincides with additional requirements introduced by the VTD as part of the accreditation process, such as attending an interview at the time of lodging the application

Data matching and case assessment have positive aspects. The data matching program has helped to bring to the VTD's attention certain drivers who have recently been charged or convicted of criminal activity, who would otherwise not have been identified. Prior to the data matching program, the VTD did not conduct ongoing criminal checks of drivers after issuing their accreditation and Victoria Police had no process of reporting charges or convictions against drivers to the regulator. The VTD relied on the honesty of drivers to notify it of these matters as a condition of their accreditation. The problematic issue is not the process of cross-checking that occurs across the two regulators, which is a positive development, but the rigid regulation that then necessitates the VTD having to take action in cases where there is little or no risk (see case study).

In effect, case assessment involves a peer review process that should lead to a balanced, objective assessment of the proposed decision or action. The inquiry understands that before a contentious decision is made by the VTD, case assessment staff provide advice as to whether or not that decision is likely to be set aside or varied on review. The delegated VTD decision-maker will then consider whether or not to follow this advice, taking into account the likelihood of the decision being overturned.

Despite the allocation of significant resources to data matching and case assessment, a number of matters relating to industry and driver accreditation are referred to the VCAT for review each year.⁵⁴ However, the number of matters reviewed by the VCAT is quite small as a proportion of all accreditations: in 2009/10, the number reviewed represented just 1.6 per cent of the 6,272 driver accreditations.

Statistics provided by the DOT indicate that an average of 20 to 30 VCAT matters are active at any given time. In 2009/10, 72 matters were referred to the VCAT for review, of which 41 were affirmed, struck out or withdrawn, and 31 matters were set aside or varied by the VCAT or by consent. This equates to approximately 43 per cent of referred accreditation-related decisions being varied or set aside in some way. In 2010/11, the corresponding proportion decreased to 33 per cent. Several factors may be contributing to this situation, including:

- It is a relatively low cost option for industry participants to lodge an appeal and, as the VCAT reviews are merits reviews, it is often worthwhile for applicants to incur the cost of applying for review to 'try their luck'.⁵⁵
- More significantly, there may be deficiencies in the VTD's administrative decision-making.

⁵⁴ VTD decisions relating to driving instructor authorities are reviewed in the Magistrates Court

⁵⁵ The majority of all decisions referred to the VCAT relate to driver and industry accreditation – that is, drivers and industry participants appealing adverse accreditation and disciplinary decisions

One plausible explanation is that the legislation's emphasis on criminal history and background, combined with the pressure of the media highlighting individual cases, influences decision-making towards an overly risk-averse culture where the 'safe' approach is to refuse applications and leave the ultimate decision to the VCAT to make on review.

A more fundamental practice issue in the accreditation function is determining the risk-based justification for the substantial allocation of resources, complex requirements and protracted timelines in accreditation processes. Furthermore, there appear to be no measures in place – either within the VTD or the DOT – to enable an assessment of whether the current approach is achieving the objectives set for industry and driver accreditation. Anecdotal feedback to the inquiry indicates a common view that the objectives of the accreditation schemes are not being met in practice. The development of an explicit risk assessment framework for the objectives of the industry and driver accreditation schemes and performance measures would be a worthwhile contribution to the regulator's practice.

Case study

Inflexibility in driver accreditation

The VTD's recent introduction of a data matching program has led to some inequitable decisions being applied to drivers who have been found guilty of committing category 1 criminal offences in the past. In two recent cases, the VTD has had no choice but to cancel the driver's accreditation and recommend that they appeal the decision to the VCAT. In each case, the VTD had to fully prepare for the matter, but did not oppose the application, resulting in a significant waste of time and resource for all parties involved.

One case involved a driver who was found guilty of having carnal knowledge with an underage girl in the 1960s (the driver was 19 and had consensual sex with his girlfriend who was 16). The second case involved a driver who made a threat to kill against his brother at a family function after having too much to drink. The driver was extremely remorseful and has since reconciled with this family.

Both drivers have excellent driving records and no other criminal history, but – under the current regulations – their driver accreditation must be revoked.

The VCAT is beginning to question why these matters are coming before it, given that the individuals have long histories of exemplary taxi driving records, the offences occurred a long time ago and no other criminal offences have been committed, and there is no suggestion that the drivers concerned would not provide services in a proper manner.

Inquiry findings

- ➔ The statutory discretion to attach conditions to licences and accreditation has led to the avoidance of regulatory impact assessments. These conditions now embody general or widespread requirements on industry participants that are more appropriately set in regulations or even legislation.
- ➔ Decision-making practices in relation to licensing and accreditation lack transparency, due partly to inadequate governance arrangements.
- ➔ The practice of seeking the VTA's views on licence applications is unnecessary and undesirable.
- ➔ Significant inefficiencies and inequities are generated by the current accreditation regime, which the VTD has only limited scope to address.

Equipment approvals and standards

All commercial passenger vehicles must comply with the standards set out in the *Transport (Taxi-Cabs) Regulations 2005* (for taxi-cabs) and the *Transport (Passenger Vehicles) Regulations 2005* (for hire cars and buses). Among other things, these regulations determine the types of vehicle that can be used as taxis, hire cars and buses and the equipment that must be installed in those vehicles. The VTD is responsible for reviewing all equipment and fittings to be installed in taxis and can determine specifications that must be met for this equipment.⁵⁶

The regulations applying to taxi equipment are piecemeal and not guided by strong overarching regulatory objectives. A study into taxi information systems commissioned by the inquiry has found that existing taxi system regulations and the approach of the VTD in applying the regulations are too prescriptive, are not focused on the outcomes of processes and impose problematic cost burdens on the industry.⁵⁷ Examples of this approach are the specifications for security cameras and electronic payment terminals.⁵⁸

The study formed the following conclusions:

- Competition in the equipment and services markets is unnecessarily constrained by prescriptive specifications that reduce industry choice and consequently results in higher costs than may otherwise apply.
- A high administrative burden is imposed on taxi operators and network service providers in providing compliance and enforcement data, most of which is currently of limited value to the regulator as a result of data quality problems.
- The introduction of new systems and features, particularly those exploiting new technologies, is delayed because they are not accommodated in the existing regulations or in the approach to implementing the regulations taken by the VTD.

The study also found that the approach to developing new or amended taxi regulations by the VTD has not considered whether the supply market can respond with competing products. Historically, some of these changes have also not been subject to a Regulatory Impact Statement process before they are introduced.⁵⁹

In addition, certain recent decisions made by the VTD in relation to mandatory equipment standards reinforce concerns that the VTD is too focused on technical details and does not consult adequately with potential equipment suppliers or the taxi industry in developing specifications for in-cab equipment. The case study provides an example of these issues.

Inquiry finding

- ➔ The VTD's decision-making and resulting requirements imposed on industry participants does not always take sufficient account of the likely compliance burden and the implications for competition in the taxi and related markets, such as services to industry participants and suppliers of equipment used by the industry.

⁵⁶ A list of in-cab equipment is provided in chapter 7

⁵⁷ Rhumb Consulting Group (2011), *Taxi Industry Inquiry Information Systems Review – Prepared for the Taxi Industry Inquiry*, Melbourne

⁵⁸ See chapter 17 for further discussion on safety cameras and chapter 12 for further discussion on payment systems and terminals

⁵⁹ This has changed with recent amendments to the *Subordinate Legislation Act 1994*, which require a Regulatory Impact Statement to be prepared for any legislative instrument (which includes the B&SS), where a 'significant economic or social burden may be imposed' by that legislative instrument

Case study

Amendment to safety camera standards

The previous safety camera standards applicable to all taxis were set in 2002. These cameras are only capable of taking low quality, still images and have a low data capacity. In 2006, following a recommendation by the Taxi Safety Taskforce, the VTD conducted a review of in-cab safety camera specifications.

The in-house review took over 12 months and involved little or no consultation with the taxi industry or Victoria Police (the draft specifications were released to existing camera suppliers, interested parties and the Victorian Privacy Commissioner for feedback before being endorsed in June 2009). The result was a very 'high end' specification that no safety cameras on the market at the time could meet. Subsequently, the VTD approved a VerifEye safety camera (the only safety camera currently approved) and mandated installation of safety cameras in all taxis operating in zones with 10 or more taxis by mid-2012. While more than half the taxis required to have cameras installed are believed to have complied, many issues have been reported, particularly in regional areas.

The process followed by the VTD led not only to an expensive camera solution being adopted, but also to a specification that only a single provider has been able to meet for the past two years. The unique nature of the VTD's requirements, in conjunction with the relatively small market (approximately 5,000 cabs) and the relatively high development and certification costs, has limited the number of firms prepared to supply the cameras and resulted in high costs to the industry (of around \$3,000 to \$4,500 per car).

The inquiry makes the following observations about the process adopted by the VTD in this instance:

- The VTD did not appear to consider the higher order question of 'what safety arrangements are appropriate for drivers' before narrowing down to safety cameras as being the required solution.
- There was little definitional clarity or evidentiary basis of the problem that was being addressed by the introduction of the new camera standard. If image quality was a problem, and consequently Victoria Police were unable to obtain useful information from the existing cameras, the inquiry could find no papers providing evidence of this.
- Although the VTD did allow existing and interested camera suppliers an opportunity to provide feedback on the specifications, it appears it did not fully consider the impact of the specification on the camera supplier market.
- The VTD did not appear to review the suitability of overseas 'off-the-shelf' equipment to establish what supply was already available and at what prices, and whether these solutions were competitively priced.
- The VTD did not take into consideration the costs of the specification on industry and does not appear to have undertaken a cost/benefit assessment of each specification.
- It appears the VTD used an ad hoc approach when compiling the specifications for the camera without using empirical data to support the inclusion of each requirement. For example, the requirement for the equipment to survive submersion in sea water for an extended period has added significant cost, but there appears to be have been no assessment of the risk or benefit justifying this.

8.3.4. Complaints handling

The VTD's complaints handling function covers:

- Complaints by consumers of commercial passenger vehicle services against participants in the industry or complaints by industry participants against other industry participants
- Complaints by industry participants or members of the public against the regulator.

The primary purposes of this function are to provide a mechanism for potential redress for consumers and to obtain information to assist the regulator to identify risks to achieving policy objectives.

As highlighted in chapter 5, there has been a steady increase in the number of formal passenger complaints lodged with the VTD over six years from 2004 to 2010. Complaints grew threefold from 2005 to 2010 and 4,152 complaints were recorded by the VTD in 2011. The vast majority of all complaints received and investigated by the VTD relate to driver conduct issues, such as poor service, unprofessional behaviour, driving infractions, fare disagreements and fare refusals. The remaining complaints mostly relate to vehicle issues (such as unroadworthiness, cleanliness or no MPTP/EFTPOS facilities) and NSP customer service/booking issues, with a handful of complaints about other matters such as touting.

The complaints handling function of the VTD is not supported by any legislative framework or objectives. It has evolved over time in response to consumer demand and a general failure by the taxi and hire car industry to accept and satisfactorily resolve complaints. This lack of a clear basis for complaints handling contributes to the poor delineation of roles and responsibilities between the VTD, NSPs, taxi operators and licence holders in resolving customer complaints. The industry exacerbates this situation by not uniformly and pro-actively acting as the first point of recourse for customer complaints about poor service delivery, although all NSPs are required to maintain a complaints handling procedure under the accreditation scheme's Business and Service Standards.

Assuming responsibility for responding to complaints that would otherwise be better handled by industry participants (such as complaints regarding NSP service) means that the VTD cannot always provide redress for complainants.

The VTD receives and investigates any complaints against or feedback on industry participants provided to it by members of the public or the industry. The VTD complaints team answer telephones, investigate complaints and refer matters for disciplinary action where appropriate.

Complaints can be lodged online or by telephoning the VTD's call centre. In many cases, complainants are requested to lodge complaints in writing, although this policy has recently changed.⁶⁰ According to the VTD, this is to ensure that the complaint can be used as evidence in any proceedings taken against the offending driver or industry participant. However, this formal approach may deter customers who simply wish to air a grievance.⁶¹

The VTD website explains the process followed when the VTD investigates a complaint and specifies the types of matters that the VTD can consider, such as complaints concerning: assaults, theft, drink-driving or drug use, road rage, vehicle accidents and refunds (other than MPTP). The VTD cannot investigate or resolve civil disputes or assist customers if they have been involved in an accident with a taxi driver.

Observations on complaints handling

Historically, the VTD has attracted criticism for not dealing effectively with complaints in a timely manner. Feedback to the inquiry is critical of the VTD in two main respects: its processes are not readily accessible or 'user friendly' and, when complaints are made, the VTD provides little or no follow-up concerning progress in resolving the complaint.

The inquiry reviewed a small sample of complaints received and investigated by the VTD. These involved issues of driver conduct and NSP booking services. Some of these cases confirmed delayed inquiries and limited follow-up by the VTD. The VTD's *A Guide to Customer Feedback and Complaints Handling* (December 2011)⁶² sets out expected timelines for response to complaints and states that, 'as a matter of standard procedure, most files should be finalised within 10 days if practicable. Very few files should remain outstanding after thirty days unless there are specific administrative requirements.' Data provided to the inquiry by the VTD indicates that the average closure time for all complaints over 2011 was 28.8 days, although there appears to have been improvement over 2011 with the first quarter averaging 41 days and the last quarter 21 days.

Notwithstanding this history and some still evident shortcomings in processes, the inquiry found that the VTD has made improvements to its complaints handling processes, particularly over the last six months. Some of the sample cases examined by the inquiry showed persistent investigation, action to resolve matters and timely advice to the complainant as to outcomes. Potential improvements identified by the inquiry include publication of more guidance to prospective complainants, training call centre staff in complaints handling and efforts to improve coordination with NSPs and operators regarding complaints.

An important element of good practice in complaints handling is that the regulator systematically incorporates information and analysis of complaints data into its compliance monitoring and enforcement functions. This involves more than simply passing investigations of complaints across to enforcement staff for prosecution. The VTD uses some information obtained from handling complaints to target specific aspects of the industry in compliance monitoring activities.

Observations on complaints handling against the VTD

The VTD reports that it is in the process of formalising a system of handling and resolving complaints against staff in the performance of the VTD's regulatory functions. The inquiry has not specifically considered this area of practice, although it notes the contribution such a system could make to establishing transparency and fairness in the relationship between industry and the VTD, and to reinforcing the VTD's accountability for its service standards.

⁶⁰ Prior to the change, the VTD call centre did take some complaints verbally, such as reporting a faulty or unsafe vehicle, but in most cases it required a complaint to be submitted in writing

⁶¹ As noted in chapter 5, a survey of taxi users conducted for the inquiry found that 84 per cent of those who experienced a problem with a taxi service in the previous 12 months did not complain about the problem

⁶² A redacted version of this document is now available on the VTD website, accessed 4 April 2012 at www.transport.vic.gov.au/__data/assets/pdf_file/0005/57902/6105-VTD-F191-online-Customer-Feedback-and-Complaints-Handling-PROOF-v6.pdf

8.3.5. Monitoring compliance

Monitoring compliance is a central function for regulators and encompasses developing a strategy for monitoring compliance, planning and managing compliance assessment activities, and determining the compliance status of regulated entities. The results of monitoring may lead to appropriate enforcement actions and should be used to inform information provision and education activities promoting compliance.

Strategy

The inquiry examined a range of material provided by the VTD relating to its compliance activities.⁶³ Unlike many other regulators who publish formal compliance policies and strategies, the VTD does not publish the documents that comprise its compliance approach.⁶⁴ The inquiry did not find clear evidence in this material that the VTD's compliance activities are founded on a rigorous assessment of risks to the policy objectives of taxi industry regulation. No material was presented to the inquiry that identified risk factors, estimated their consequences and likelihood of occurrence and ranked the priority of this risk in terms of addressing it through compliance activities. If such material exists, the methodology and assessments, and how they lead to the monitoring activities conducted are not transparent.

The VTD's *Business Plan 2010/11* lists four targets under the heading *Strategies – what will be done to meet the outcome objective 'continue to regulate the taxi and hire car industry in line with legislative requirements'*: accreditations processed, audits carried out, inspections carried out and complaints investigated. The plan provides no rationale for the specific targets set or why these activities are selected in preference to others.⁶⁵

In addition to the apparent absence of a systematic assessment of risk underlying the VTD's compliance activities, the inquiry did not gain a clear impression of the VTD's compliance monitoring priorities or why certain monitoring activities are undertaken. For example, the *Business Plan 2011/12* for the transport safety compliance function refers to the re-introduction of touting exercises and operations in hire car inspections, including covert touting operations.

The evidentiary basis for allocating resources to this area of potential non-compliance is not clear, particularly as touting does not feature in the major categories of customer safety-related complaints. It may have been prioritised on the basis of complaints from industry and Melbourne Airport about touting prevalence, but without knowing the rationale and evidentiary basis for carrying out these activities instead of something else, an assessment of their appropriateness as a compliance strategy cannot be made.

As noted earlier, the inquiry acknowledges that the VTD is given little guidance or scope in regulation to incorporate risk-based prioritisation into its operations. However, it does appear that more could be done by the VTD to adopt a more risk-based approach in its compliance activities.

Strategy options

Overall, the legislative scheme provides the VTD with no encouragement – and little flexibility – to focus on outcomes and to be innovative and responsive in dealing with a dynamic risk environment. In addition, the prescriptiveness of the legislation does not promote a risk-based compliance function.

Prior to 2008/09, the VTD did not conduct targeted compliance operations. Rather, it set a broad annual target of up to 50,000 random inspections and progressively worked towards that goal over the course of each year. Since then, the VTD has become more selective in its approach and now targets certain areas for transport safety officers to focus on, in addition to maintaining a level of random operations.

Based on the material provided to the inquiry, there is little evidence to suggest that the VTD actively uses 'constructive compliance' approaches. Constructive compliance involves using a combination of incentives, deterrents, education and other strategies to improve industry awareness and compliance, rather than relying on output-based techniques (such as inspections and audits conducted). On the other hand, the prescriptive nature of the regulations does not lend itself to flexible and pro-active compliance initiatives, such as providing incentives for industry participants who provide good service. Also, the VTD is constrained by a lack of reliable and up-to-date industry data to inform its compliance activities. This has been caused by poor compliance by some NSPs with the record-keeping requirements in the regulations and an apparent reluctance on the VTD's part to enforce these regulations.

63 VTD *Business Plan 2010/11*; VTD Operations Directive Booklet (August 2011); VTD Transport Safety Compliance Division *Business Plan 2011/12*; all provided to the Taxi Industry Inquiry by the VTD

64 Refer to WorkSafe, A Summary of compliance, enforcement and prosecution policy, accessed on 4 April 2012 at www.worksafe.vic.gov.au/wps/wcm/connect/04cb8b004071f4c0a09e4ee1fb554c40/compliance_policy_summary.pdf?MOD=AJPERES, for a good example of such a policy

65 VTD *Business Plan 2010/11*, p.14

According to the VTD, following the introduction of the driver accreditation regime in 2008, attempts were made to educate drivers about their obligations under the regime. However, in September 2009, the VTD stepped up enforcement activities, which resulted in a sharp increase in notices being issued (see section 8.3.6).

The VTD has also indicated that it offers information to drivers and operators on a case-by-case basis (that is, during an inspection). However, the VTD rarely conducts pro-active educational programs designed to target problem areas, such as short fare refusal or poor record-keeping. The VTD has conveyed its view to the inquiry that educational techniques generally do not work in the taxi industry. It considers that penalty infringement notices and rectification notices are the most effective way to ensure compliance with the regulations.

The inquiry has received some feedback that the VTD is not strategic enough in the way it conducts its operations and is too heavy handed in its approach.⁶⁶ Some industry members feel that the VTD's compliance activities are too focused on drivers, rather than licence holders, operators and NSPs. There is also a perceived lack of transparency about the VTD's compliance activities which is most probably due to the lack of any published compliance policy or directives made available to the public, as noted above.

Activities

The VTD undertakes two main compliance monitoring activities: on-road inspections of drivers and vehicles, and audits and investigations of NSPs and operators.

Vehicle and driver inspections

The VTD allocates significant resources (35 staff) to inspections of vehicles and drivers for compliance with the *Transport (Compliance and Miscellaneous) Act 1983*, (and associated regulations) and the *Road Safety Act 1986* and investigations of driver-related complaints by taxi users. The VTD has a permanent Taxi Inspection Centre located at Melbourne Airport where it conducts routine and random vehicle and driver inspections.

In 2009/10, the VTD conducted approximately 51,300 inspections and issued approximately 12,900 compliance notices: an average of one notice for every four inspections. In 2010/11, the VTD conducted approximately 38,400 vehicle inspections, which resulted in a total of approximately 7,600 compliance notices being issued: an average of one notice for every five inspections.

The decline in the total number of inspections presumably reflects the VTD's move to more targeted inspections, away from random inspections. However, the reason for the fall in the frequency of notices resulting from inspections by nearly 25 per cent is not clear. More targeted inspections would be expected to *increase* the frequency of notices to inspections (assuming the targeting was related to estimated higher risk factors). Alternatively, there may be a large overall increase in compliance levels across the board, which is a positive outcome and could be offsetting the concentrating effect of targeting. More data over a longer period of time is required to draw any firm conclusions, and to assist the VTD to further improve its targeting.

The inquiry also notes that, given that the total number of vehicles is approximately 7,100 in 2009/10 and 7,700 in 2010/11, the average number of inspections *per vehicle* per year was roughly 7.2 and 5 respectively. However, allowing for the focus on taxis, the average number of inspections per taxi in these years was about 10.9 and 7.4. This implies inspection on average of *each* taxi every five to seven weeks. Unless inspections are totally random, the regulator is, in effect, estimating that entities will remain compliant for only five to seven weeks before a further compliance assessment is warranted. This seems a very short period.

Data on the total number of inspections conducted by the VTD, by category of vehicle taxi and hire car between October 2009 and July 2011 indicates that the VTD's inspection focus has been on taxis, with a relatively small number of hire car inspections. The number of hire car inspections averages about 220 and the number of taxi inspections averages 3,700 per month. In 2010/11, with approximately 2,500 hire cars operating in Victoria, compared with approximately 5,200 taxis, taxis account for about 68 per cent of vehicles but represent consistently more than 90 per cent of inspections. This may reflect the VTD's assessment that taxis have a higher risk of compliance failure. Alternatively, taxis provide a greater potential 'return' of infractions per unit of inspection 'investment', simply because taxis are the most heavily regulated vehicles and there are more items to inspect.

⁶⁶ At the Taxi Driver's Forum held by the Taxi Industry Inquiry in October 2011, many drivers complained about what they regarded as an unduly punitive and aggressive approach taken by the VTD to enforcing driver compliance

Case study

Monitoring hire car and special purpose vehicle licence conditions

The VTD also monitors the licence conditions imposed on hire car and special purpose vehicle SPV operators in Victoria. Prior to 2009, the VTD did not maintain up-to-date records of these licence conditions. Consequently, a confusing and inconsistent array of licence conditions applicable to hire cars and SPVs has developed. Without accurate and reliable data on certain licence conditions, the VTD does not know what conditions actually apply to certain operators. This has created problems for VTD transport safety officers seeking to enforce licence conditions against hire car and SPV operators. VTD officers in some cases do not have accurate and reliable information regarding the applicable licence conditions.

Audits and investigations

The VTD's audit and investigations function commenced in 2008, following the progressive introduction of the industry accreditation regime during 2008 and 2009. Amendments to the *Transport (Compliance and Miscellaneous) Act 1983* saw the introduction of the Business and Service Standards (B&SS), which were designed to hold licence holders, operators and NSPs accountable for service delivery outcomes. These standards, together with existing regulations, provide the basis upon which the VTD determines compliance with the industry accreditation scheme. Audits also provide intelligence concerning non-compliance in urban and country areas to assist the VTD in making decisions on varying licensing conditions or granting NSP accreditation.

The VTD monitors compliance by operators and NSPs with the industry accreditation scheme's B&SS and the regulations.⁶⁷ It also conducts a range of other compliance, investigation and complaints resolution activities. The audit program does not appear to have a clearly documented plan; rather, it is based on a combination of internal referrals, non-compliance project work and external referrals from Victoria Police and members of the public via complaints. The VTD also conducts investigations into fraud, including credit card, Cabcharge and MPTP fraud, often in association with Victoria Police and other agencies such as the Australian Federal Police.

The VTD conducts three different types of audits: 'response', 'targeted' and 'random'. Response activities are initiated when information is received by the VTD about an industry participant that requires urgent action. Targeted audits occur when information identifies a risk or non-compliance that exists more broadly throughout the industry. Random audits are generally conducted when new standards, regulations or requirements are introduced. If audits identify non-compliance issues, the VTD can issue Infringement Notices or Improvement Notices to the offending party (see section 8.3.6).

Since the introduction of the accreditation schemes, the VTD has been moving away from its initial emphasis on conducting random audits of operators and educating them about their obligations under the new regulations towards more 'response' and 'targeted' operations. In 2009, 56 per cent of all audits were targeted audits, rising to 48 per cent in 2010 and rising to 84 per cent in 2011. Over the three full years 2009 to 2011, 95.4 per cent of audits were conducted in relation to operators, 4.6 per cent in relation to NSPs and none in relation to licence holders. The latter is not surprising, given that the regulations do not impose many service or operational requirements on licence holders. The proportion of all audits conducted in relation to NSPs was higher in 2011, at eight per cent compared to four per cent and one per cent in 2009 and 2010 respectively.

⁶⁷ Primarily Schedules 1, 2 and 3 of the *Transport (Taxi-cab Industry Accreditation) Regulations 2007*

A number of monitoring issues have been identified through audits, including:

- *Inconsistencies between records kept by certain taxi operators and the reality found by inspections* – The VTD told the inquiry that certain operators have become adept at creating ‘immaculate’ records that comply with the B&SS and the regulations, notwithstanding that inspections reveal that their taxis are non-compliant and unsafe.⁶⁸
- *Poor levels of compliance by certain NSPs with record-keeping requirements* – The VTD has expressed frustration with the difficulties in obtaining information from the industry. The inquiry accepts that the inability to obtain information from the industry constrains the effectiveness of the VTD and that the industry’s resistance to providing critical information is a significant impediment to ongoing successful reform. However, the inquiry considers that the VTD has not applied its full range of powers to enforce current data requirements, including applying penalties and suspending accreditation.⁶⁹
- *Ineffective sanctions* – The VTD questions the effectiveness of issuing an improvement notice to enforce compliance with the B&SS, where other sections of the *Transport (Compliance and Miscellaneous) Act 1983* and regulations carry financial penalties.⁷⁰ An improvement notice requires the offending party to remedy the breach within 28 days, with the potential for a possible suspension or cancellation of accreditation if non-compliance continues. An infringement notice enables the VTD auditing officer to issue a penalty immediately.

While acknowledging these concerns, the inquiry notes that it is unclear how pro-actively the VTD have sought to address these issues. There appears to have been some willingness to continue to educate industry members and to challenge the somewhat recalcitrant attitude of some of the NSPs.

8.3.6. Enforcing compliance

Addressing non-compliance is a major function for most regulators. The primary purpose of this function is to encourage ongoing compliance through the application of incentives and graduated sanctions and to address the most serious risks from non-compliance with timely and possibly punitive actions.

The VTD does not have a comprehensive enforcement policy that sets out its approach to using the various responses to non-compliance available to it and how enforcement action fits into its broader strategies for maximising compliance.

The VTD has a range of administrative actions available to it and may pursue prosecutions in the Magistrates Court for particular offences.

Administrative responses

Sanctions available to the VTD and the circumstances to which they apply are outlined in Table 8.5.

⁶⁸ Records required to be kept by operators cover a range of matters, including shift details, costs, bailment agreements, vehicle maintenance and faults, and complaints

⁶⁹ The records required to be kept by NSPs cover a range of matters including bookings, emergency warning device activation, complaints, disciplinary procedures, training, and any agreements with operators and/or drivers

⁷⁰ VTD, Submission to the Taxi Industry Inquiry, SS168, p.25

Table 8.5 Administrative enforcement actions available to the VTD

Sanction (from less serious to more serious)	Description
Defect Notices	<p>The VTD can issue a Defect Notice for a variety of safety related offences under the <i>Road Safety Act 1986</i>, such as bald tyres, head lights not working and so on.</p> <p>The VTD must form a view that the deficiency in the vehicle may constitute a safety risk if allowed to continue. Defect Notices are split into Minor and Major categories, depending on the seriousness of the safety risk. Defects are required to be rectified within the time period specified in the notice.</p>
Rectification Notices	<p>If a taxi vehicle is unsuitable or unfit for use as a taxi-cab or does not comply with the <i>Transport (Compliance and Miscellaneous) Act 1983</i> or the regulations or any condition of the licence under which it is operated, a member of Victoria Police or a VTD officer may serve a notice on the operator or the driver of the taxi-cab, requiring that the matters set out in the notice be rectified within a specified time. Drivers are required to give a copy of the Rectification Notice to the operator of that taxi-cab as soon as practicable after being served with the notice.</p> <p>Rectification Notices are usually assessed as Minor, Moderate or Serious (or a combination) which determines the level of rectification or inspection required and the time frame for rectification. Once a 'Serious' Rectification Notice has been issued, the relevant taxi-cab cannot be operated as a taxi until it is authorised to do so by the VTD or Victoria Police.</p>
Improvement Notices	<p>Improvement Notices are Issued where the VTD believes on reasonable grounds that an accredited industry member is breaching the conditions of their accreditation, the B&SS or the <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations, and that this contravention is likely to continue or be repeated.</p> <p>The Improvement Notice must set out the relevant contravention(s) or activities that are required to be rectified within a certain time frame.</p>
Official Warnings	<p>If the VTD believes a person has committed an offence but, in considering all the circumstances, decides that a PIN is not appropriate, an Official Warning in writing can be issued. The VTD must demonstrate a sound rationale for issuing a warning instead of a PIN, such as mitigating circumstances or where the offender has a good prior record. The information to be included in an Official Warning is outlined in the <i>Infringements (Reporting and Prescribed Details and Forms) Regulations 2006</i>.</p>
Penalty Infringement Notices (PINs)	<p>Penalty Infringement Notices are penalties or fines issued under the <i>Infringements Act 2006</i>, for certain nominated offences listed under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> and regulations. Infringements are designed to save the time and costs of going to court for certain minor offences.</p> <p>The Department of Justice sets the rules regarding which offences qualify as Infringements under the Act. Not every taxi and hire car offence under the <i>Transport (Compliance and Miscellaneous) Act 1983</i> and Regulations qualifies as an Infringement. For example, failing to maintain a neat and tidy appearance under section 31(2) of the <i>Transport (Taxi-Cabs) Regulations 2005</i> does not qualify.</p>
Show Cause Notices	<p>Where the VTD forms the opinion that an accredited operator, licence holder, NSP or driver is potentially not fit to hold their relevant accreditation or licence, or should be subject to disciplinary action, the VTD will refer the matter to the case assessment team for investigation, which may result in a show cause notice to be issued.</p> <p>The respondent then has 28 days to respond (or 14 days in some cases) to the matters set out in the notice. The VTD must then make a decision as to whether to initiate disciplinary action, taking into account any submissions received in response to the notice, and then notify the respondent of the decision.</p>

Source: VTD

Table 8.6 Incidence of administrative enforcement actions by VTD

Enforcement action and main parties	2006/07		2007/08		2008/09		2009/10		2010/11	
	No.	%	No.	%	No.	%	No.	%	No.	%
Defect Notices ⁷¹ (drivers)	2,572	66.5	3,543	74.2	771	16.6	1,061	7.6	684	8.2
Rectification Notices (drivers)					1,010	21.8	7,265	52.0	4,900	59.1
Official Warnings	302	7.8	386	8.1	849	18.3	1,083	7.8	639	7.7
Penalty Infringement Notices (drivers)	953	24.6	784	16.4	1,977	42.6	4,540	32.5	2,061	24.8
Show Cause Notices	40	1.0	65	1.4	31	0.7	22	0.2	12	0.1
Total	3,867	100	4,778	100	4,638	100	13,971	100	8,296	100
Improvement Notices (operators, NSPs)	n.a.		n.a.		192		133		12	

Source: VTD

Table 8.6 provides data from 2006/07 to 2010/11 on the incidence of the VTD's use of these various administrative responses. It indicates a reliance on rectification notices, which account for about half to two thirds of actions over the last five years, and penalty infringement notices, which account for about one quarter to one third of actions.

A large number of disciplinary notices have been issued by the VTD over the last five years, mostly against drivers. The number of improvement notices issued against operators, NSPs and licence holders over the corresponding period is very low. This suggests that the VTD has been very active in enforcing driver compliance and safety issues.

The annual data in Table 8.6 mask recent patterns in the types of enforcement actions taken by the VTD. In particular, there was a marked increase in compliance notices, particularly rectification notices and to a much lesser extent PINs, issued by the VTD from September 2009 until September 2010. According to the VTD, this sharp increase in compliance notices was largely related to the introduction of the driver accreditation regime. When this regime was introduced in 2008, the VTD embarked on a program of educating drivers about their obligations under the regulations with a 'period of grace' for them to adjust to the new requirements. VTD then vigorously enforced the regulations from late in 2009 by issuing relatively large numbers of rectification notices and PINs.

When questioned about the effectiveness of the existing suite of compliance and enforcements tools, VTD staff indicate that they are quite happy with those available under the regulations, with the exception of those offences where the VTD cannot issue a PIN⁷² or where the PIN does not impose what the VTD regards as a penalty sufficient to deter offenders.⁷³ The VTD submission to the inquiry also reports that non-payment of infringement notices is particularly high among taxi drivers, with many drivers leaving Australia before the VTD can successfully prosecute them for failure to pay the fines.⁷⁴

Notwithstanding this feedback from the VTD, the inquiry has found that there is a strong case for the future regulator to be vested with a more flexible range of compliance and investigatory tools, including greater access to civil remedies, such as injunctions, various court orders and financial penalties.

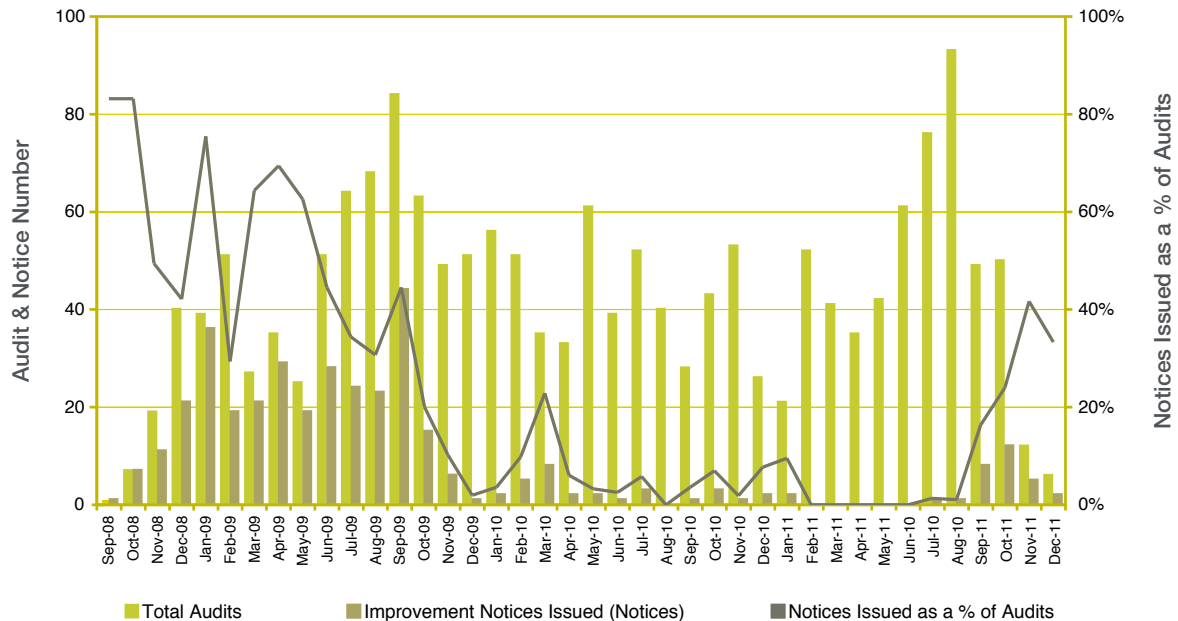
⁷¹ Due to deficiencies in the compliance data available from the VTD, it is not possible to show the split of Rectification and Defect Notices issued prior to 2009

⁷² For example, where accredited drivers fail to maintain a neat and tidy appearance in accordance with section 31(2) of the *Transport (Taxi-cabs) Regulations 2005*

⁷³ For example, where certain SPVs (such as wedding cars) are found to be operating outside their licence conditions, the fine is only \$150

⁷⁴ VTD, Submission to the Taxi Industry Inquiry, SS168, p 23

Figure 8.1 Improvement notices issued as a % of audits



Source: VTD

The number of audits conducted by the VTD (comprised of operator and NSP audits), and the corresponding number of improvement notices issued as a result of those audits is shown in Figure 8.1. Here again, the VTD does not publish any enforcement policy or guidelines relevant to the audit function. Figure 8.1 shows a large number of improvement notices issued in 2009 when the VTD started to audit operator compliance with the B&SS. This number fell away in late 2009 as the VTD's focus shifted to outer suburban zones, such as Frankston and Dandenong, where good levels of compliance existed. In 2010, VTD staff were first authorised to issue Official Warnings and PINs. As a consequence, the number of improvement notices issued dropped markedly, as the VTD preferred to use the newly available sanctions. Since September 2011, the balance of sanctions appears to have reverted back to a combination of both improvement notices and PINs to address non-compliance.

The apparent lack of focus on NSPs over the last few years is a concern from the perspective of establishing accountability for the provision of services to taxi customers. NSPs are required to meet a number of requirements under the B&SS and the regulations, including maintaining records of agreements, bookings, complaints and disciplinary action taken against drivers and operators. The VTD appeared to re-focus on this sector from June to August 2011 with increased audits of NSPs. The outcome of this is not clear from the data available to the inquiry. NSP compliance with the B&SS and the regulations, particularly with record keeping requirements, remains problematic.

Inquiry finding

→ The VTD does not take a sufficiently risk-based approach in determining compliance operational priorities in the context of constrained resources. While it formulates annual plans for compliance monitoring activities and more recently has increased the targeting of compliance activities, these are not based on systematic, evidence-based assessments of risks to regulatory objectives.

Prosecutions

Generally, the VTD issues PINs to address clear instances of non-compliance, rather than prosecuting offenders in the Magistrates Court. The majority of matters that result in prosecutions in the Magistrates Court arise from PINs being issued to offenders who decide to contest the matter. Table 8.7 shows the number of prosecutions commenced in each of the last financial years. It shows a significant rise in prosecutions in the last two years, both in absolute terms and as a proportion of total complaints received and investigations conducted (although there is no necessary connection between complaints and prosecutions). The reason for this marked increase in prosecutions is not clear.

Table 8.7 VTD prosecutions

Prosecutions	2006/07	2007/08	2008/09	2009/10	2010/11
Prosecutions commenced	112	40	88	361	231
As proportion of complaints received	5.7%	1.3%	3.3%	10.2%	6.7%
As proportion of investigations	5.7%	1.5%	2.6%	10.1%	7.0%

Source: VTD

Other matters referred for prosecution include those offences that cannot be addressed through the use of PINs; for example, where a driver is found operating a taxi with a suspended or disqualified driver's licence. In these cases, a brief of evidence is prepared and referred to the department's legal division (DOT Legal) for assessment. If DOT Legal decides to prosecute, the offender will be issued with a charge and a summons to appear in the Magistrates Court. Driver behaviour is another instance of non-compliance where the VTD may decide to prosecute. Charges in such instances primarily relate to drivers using threatening language to VTD staff or committing minor assaults against VTD staff.

Management of the prosecution function

An enforcement management issue arising out of the regulatory scheme and the governance arrangements discussed earlier is the inability of the VTD to make independent decisions regarding the allocation of legal resources, as it would if it were a statutory authority.

The VTD obtains legal advice from a small team of lawyers from DOT Legal who are physically located with the VTD and work exclusively on VTD-related matters. These lawyers are not funded from the VTD budget and report directly to the Governance branch of DOT Legal.

Additional legal resources are provided to the VTD by the governance branch of DOT Legal for administrative (VCAT) appeals, Supreme Court and Magistrates Court appeals, *Transport (Compliance and Miscellaneous) Act 1983* prosecutions and general legal advice. These lawyers do not sit within the VTD and also work predominantly on taxi matters.

The ability of the VTD to institute its own legal proceedings against industry participants is hampered by the current regulations. Under the *Transport (Compliance and Miscellaneous) Act 1983*, any prosecution for an offence under the Act may only be brought by a member of the police force or a person authorised by the Secretary or the Roads Corporation.⁷⁵ Once the action has been instituted, the person bringing the action can appear in court or another person authorised by the Secretary can appear. DOT Legal currently manages, or briefs out, all prosecutions on behalf of the VTD under authorisation from the Secretary. All potential prosecution matters are referred from the VTD to DOT Legal for review before any action is taken.

Inquiry finding

→ The VTD lacks a comprehensive performance measurement framework across its major functions of stakeholder engagement, licensing and accreditation, compliance monitoring and enforcement. Such a framework would enable the VTD to assess its performance over time and make adjustments to how it goes about its business to improve its efficiency and effectiveness.

⁷⁵ Refer to section 229 of the *Transport (Compliance and Miscellaneous) Act 1983*

8.4. Other regulatory functions

8.4.1. Regulatory coordination

Effective coordination of regulators working in related areas is essential for ensuring appropriate regulatory coverage, but also for avoiding overlap and duplication. Many Victorian businesses operate in an environment with multiple regulatory agencies. Inconsistencies experienced by regulated entities when dealing with different agencies adds to 'compliance confusion' and the total costs of compliance. Coordination of regulators' activities can provide opportunities to reduce regulatory burdens while improving compliance. The taxi industry is no exception to these general observations. Accordingly, there is an onus on the VTD and other relevant agencies to work collaboratively to minimise burdens on industry participants.

Formal coordination mechanisms to clarify roles and responsibilities may include agreements detailing respective roles, cooperative arrangements and shared electronic access to information held by other regulators. The effectiveness of such arrangements will depend upon the capacity of regulators to identify opportunities and forge effective working relationships. Legislation should explicitly empower regulators to cooperate with other agencies and bodies in pursuit of the regulator's objectives.

The main government agencies with ancillary roles within the current taxi and hire car regulatory and enforcement framework are VicRoads, the Victoria Police and the ESC. The VTD, particularly in relation to its audit and investigations function, also maintains a number of other relationships – such as with the Australian Taxation Office, the Transport Accident Commission, the Australian Federal Police and the Department of Immigration and Citizenship – that involve sharing information to carry out enforcement and compliance activities.

The inquiry's principal observation about the VTD's key relationships with other regulators and government bodies is that they are not founded in formal arrangements such as memoranda of understanding (MOUs) or service level agreements. This is surprising given the length of time the VTD has been in operation and the strategic importance of some of these relationships to critical VTD functions. The inquiry understands that the VTD and VicRoads are in the process of drafting a MOU governing ongoing services to be provided between the parties.

The inquiry also found that the VTD does not maintain strategic relationships with Consumer Affairs Victoria (CAV) and the VRQA. Again, this is surprising given the overlap with CAV as the general consumer protection body in Victoria, and with the VRQA as the authority responsible for the regulation of registered driver training providers.

While MOUs are one way of addressing overlap among regulators, formal agreements may not always be necessary to create cooperative arrangements between agencies. Nevertheless, formalising arrangements has the advantage of forcing clarity in the allocations of responsibilities between agencies. MOUs are particularly useful where there are overlaps in jurisdictional responsibilities that have resulted in duplication or confusion – or even gaps in regulatory oversight – among regulators in administering their respective regulations.

Relationship with Victoria Police

Victoria Police has an important role to play in the safety of taxi and hire car services. It is responsible, among other things, for investigating incidents in taxis where criminal offences, such as theft, assault and fraud have been committed. Some efforts have been made in recent years to improve communication and coordination between Victoria Police, the VTD and the taxi industry. Initiatives worth noting include:

- Victoria Police has appointed a liaison officer for the taxi industry who is a contact point for the VTD on taxi issues and who attends meetings with the VTD's taxi driver and operator groups to hear feedback relating to Victoria Police and help to develop initiatives to address concerns raised.
- Victoria Police, in conjunction with the VTD, has introduced a taxi incident notice form procedure to make it easier for taxi drivers and operators to report incidents and for Victoria Police to determine trends and allocate law enforcement resources.
- An agreement between Victoria Police and the VTD has enabled weekly 'data matching' checks to be carried out to alert the VTD to taxi drivers and other industry participants who have been convicted of criminal offences since being accredited.

Despite these improvements, taxi drivers, operators and networks have called for more to be done to improve police responses to taxi-related incidents. A number of drivers told the inquiry that they feel their concerns about personal safety are not taken seriously by Victoria Police and that police do not give attention to driver reports of fare evasion or 'less serious' criminal acts committed by passengers. As a result, many drivers do not report these matters to police.⁷⁶ Discussions held between some of the major metropolitan NSPs and the inquiry also revealed that many of these NSPs do not have established contact points or liaison arrangements with Victoria Police to discuss taxi-related incidents (and were largely unaware of the position of liaison officer for the industry).

The inquiry has also heard that in a driver emergency situation, taxi networks sometimes alert nearby taxis of the location of the driver in distress in addition to police, as police may not be able to respond in a timely manner.⁷⁷

Through discussions with Victoria Police, the inquiry has identified the following issues:

- There is an apparent lack of awareness and understanding of the taxi industry and how taxi-related incidents can be investigated, with some police officers incorrectly classifying matters such as fare evasion as civil matters.
- There is low awareness and understanding of the role of the regulator and how it can assist in relation to taxi-related incidents.
- Communication breakdowns and poor information sharing and coordination between parties have caused some investigations, particularly in relation to taxi fraud, to become protracted and ineffective.⁷⁸
- Having one liaison point for the entire state makes it difficult to address local taxi-related concerns.
- Due to gaps in data collection and under-reporting, it is difficult to obtain a full picture of the number of incidents committed by and against taxi drivers.

Data received from Victoria Police shows that over the last three financial years around 1,100 offences occurred in taxis. As the LEAP database does not record who committed the offence, it is unclear whether these offences were committed by the taxi driver or the passenger. As a result, it is difficult to draw too many conclusions from this data other than that assault, deception and theft are the three most common categories of offences committed in taxis. It is also unknown to the inquiry whether offenders were successfully apprehended or charged in any of these incidents.

Options for improvement

The inquiry acknowledges that Victoria Police has to prioritise its resources and that this may have an impact on responding and processing incidents involving taxi drivers. Notwithstanding this, the inquiry considers that there are a number of areas where current practices could be improved:

- *Victoria Police member education and awareness of taxi-related issues* – developing opportunities for members to gain a better understanding of crimes involving taxi drivers, how these crimes can be investigated, and what action can be taken, including when the regulator should be involved.⁷⁹
- *Dedicated police contact points* – some drivers have called for dedicated police contact points across the State who have a good understanding of the industry, so that issues can be raised and resolved at a higher level, rather than dealing with local police.
- *Safety camera downloads* – the requirement for a VTD officer to perform safety camera downloads is believed to be a source of frustration for Victoria Police (and for taxi drivers and operators because of the time required to report an incident and for the VTD to download images). One option is for the VTD to train certain Victoria Police members to download camera footage.
- *Establish an Accord* – a positive outcome of a recent meeting between the inquiry and Victoria Police⁸⁰ was for Victoria Police to investigate the introduction of an Accord (or high level liaison) between Victoria Police, the VTD and members of the taxi industry, with the aim of raising the profile of taxi-related issues within Victoria Police (up to Assistant Commissioner level) and providing a clear process to resolve issues of concern.

Relationship with interstate jurisdictions

The VTD is a member of the National Taxi Regulators Group. The group meets twice a year and is a forum for discussion of initiatives in each jurisdiction. It facilitates an ongoing exchange of ideas and experiences between jurisdictions, with a focus on operational issues and policies. It has achieved some success in establishing a national driver training curriculum and is currently working towards a complementary national assessment framework.

⁷⁶ Chapter 17 contains a more detailed discussion on this issue

⁷⁷ NSP responses to emergency alarms are discussed in chapter 17

⁷⁸ This issue was raised by the Victorian Auditor General in its December 2008 report: *Management of the Multi Purpose Taxi Program*, Victorian Government, pp.19-20

⁷⁹ One example is the 'Taxi Matters Handbook' used by police in Ireland to educate officers on taxi-related issues

⁸⁰ Meeting between Commissioners from the Taxi Industry Inquiry and the Chief Commissioner of Victoria Police, 29 March 2012

Further benefits could be gained if this forum considered issues of national consistency, such as equipment technical specifications being more standard across all jurisdictions to contain manufacturing costs, or industry structure and performance issues such as the impact of national players in the taxi industry. Issues of alternative regulatory approaches and their application could also be usefully explored by this group.

Inquiry findings

- ➔ Key relationships with other regulators and government bodies relevant to the taxi and hire car industries are not formalised in documented arrangements.
- ➔ The important relationship between the VTD and Victoria Police requires attention from both agencies. More needs to be done to improve communication, coordination and information sharing between the two agencies.

8.4.2. Reducing the regulatory burden

While regulation is an important tool in achieving the Victorian Government's policy objectives, ensuring that no unnecessary burden is imposed on businesses has been a priority for successive Victorian Governments. Regulatory reform initiatives since the mid-2000s have included the goal of reducing the administrative burdens imposed on businesses in complying with the information requirements of regulation. Indeed, funding has been available from the Department of Treasury and Finance (DTF) through the Reducing Regulatory Burden (RRB) initiative for agencies' projects that produce quantifiable reductions in the administrative costs incurred by businesses in complying with regulation. Several Victorian regulators with licence-based regulatory schemes have responded by increasingly incorporating electronic applications and on-line processing into their licensing schemes.

The inquiry has reviewed the range of licensing and accreditation services and associated information requirements that the VTD provides to industry and the general public. All of the services available to industry, such as assessing applications for driver and industry accreditation, require the applicant to manually fill out the required forms and submit them to the VTD, along with any supporting documentation. No licensing and accreditation or payment services are made available online. The VTD did briefly consider applying for funding from the RRB program to develop online driver and industry accreditation services, but did not proceed.

The VTD explained this lack of progress in developing online licensing facilities by referring to:

- The highly complex nature of the application process, with some processes requiring numerous forms and documents to be submitted in support of an application
- All applications requiring the applicant to come into the VTD at least once, to verify their ID
- The systems used by the VTD (being VicRoads systems) are old and do not offer certain functions (such as online payments) to the VTD.

The recent introduction of the Victorian Taxi Management System (VTMS) by the VTD, which is designed to eventually replace the VTD's reliance on VicRoads' licensing systems and mainframe, is expected to provide the potential for the introduction of some technological improvements (such as online payments) by early 2013.

Administration of the MPTP is another application process with potential for online treatment. All applications for membership to the MPTP must be made in writing using the form(s) available on the VTD's website. Both the applicant and the applicant's doctor must fill in an application form. Until very recently, both applications were required to be filled in manually and submitted to the VTD. The VTD recently received funding from DTF under the RRB to give medical practitioners the ability to lodge their forms online via the VTD's website. To date, this service has not been made available to applicants. The reason for this is that the RRB criteria only provide funding for initiatives that reduce regulatory burdens on businesses, not individuals.

Inquiry finding

- ➔ A relatively low priority has been assigned by the VTD to exploring ways to reduce the administrative burden on regulated entities over a period when this has been a significant focus of whole-of-government regulatory reform in Victoria.

8.5. Administering the MPTP

As noted earlier in this chapter, the VTD combines its regulatory functions with the administration of the MPTP. The inquiry's view is that combining MPTP administration, which involves paying a subsidy to entities that are directly regulated by the VTD, with regulatory functions is not necessarily inappropriate in this case as there is some complementarity between the MPTP's information base and the VTD's regulatory activities. Having the regulator undertake this non-regulatory function is potentially an efficient and effective arrangement. However, there are some important principles that should be incorporated in the VTD's administration of the subsidy program:

- There should be a mechanism for ensuring that any conflicts arising between the VTD's regulatory and non-regulatory functions are managed and resolved transparently.
- The performance of the VTD in administering the subsidy program should be regularly reported to all relevant stakeholders.
- The VTD's administration of the program should be periodically reviewed to ensure there is continuing net public benefit from the arrangement.

The administration of the MPTP has involved the DOT (as the legal entity encompassing the VTD) entering into contracts with several service providers for components of the operation of the subsidy scheme, including Cabcharge Australia Pty Ltd.⁸¹

8.5.1. General administration issues

Administration of the MPTP program highlights the need for a central repository of data relating to members with medical/disability issues who participate in Government subsidy programs. Currently the VTD, the Transport Ticketing Authority and the Department of Human Services all manage separate databases, which are not always checked against each other. This can result in duplication and inefficiencies.

MPTP cards are issued for six years, and eligibility is not reviewed by the VTD over that period. Consequently, there are a number of members who, for a number of reasons, may no longer qualify for the program (for example, if their financial situation changes), but who are not identified by the VTD and re-assessed. Greater flexibility needs to be built into this regime so that people who no longer need or qualify for the program can be removed and newer applicants can join.

8.5.2. Fraud and the MPTP

The VTD does not have specific legislative investigatory or enforcement powers in relation to fraud, but carries out its activities within the current regulatory framework in association with other law enforcement bodies. In its submission to the inquiry, the VTD urged the inquiry to consider the benefits of a statutory framework for the operation of the MPTP:

Providing a legislative basis for the MPTP would help to clarify rights and responsibilities of users, further control of fraud and abuse of the system by having a process for investigating and removing cards (where fraud is perpetrated by users), enforce conduct offences by drivers and clarify the exceptional payments system.⁸²

The inquiry agrees that some form of legislative foundation for the MPTP program (at least improved investigatory and enforcement powers) should be considered as part of the future regulatory structure.

The Victorian Auditor General's Office (VAGO) conducted an audit of the VTD's management of the MPTP in 2008. Part of its scope was to review the controls put in place by the VTD to manage MPTP fraud. VAGO assessed the effectiveness of the VTD's fraud identification and mitigation activities against the *Australian Standard ISO 8001-2008: Fraud and corruption control*, which sets out the recommended approach for fraud and corruption control by public sector agencies.

VAGO's key findings were:

- The VTD did not have a fraud control plan based on a risk assessment of the likelihood and exposure to types of fraud; nor did it maintain a fraud risk register.
- The VTD did not have documented protocols with Victoria Police regarding information exchange, liaison and investigations in cases of suspected fraud.
- Reporting of fraud internally to the DOT and externally to the Auditor General and the Minister for Finance had not occurred.⁸³

Since the VAGO report, the VTD has improved its fraud detection and control processes. It now has the opportunity to further improve its strategic response to MPTP fraud. This includes implementing further measures in the VAGO report that have not yet been adopted – for example, to finalise an MOU with Victoria Police about information exchange, liaison and investigations of MPTP fraud, which to date has not yet occurred.

⁸¹ The implications of this arrangement are canvassed more fully in chapter 12

⁸² VTD Submission to the Inquiry, Op. Cit., p.36

⁸³ Ibid., p. 17

The VTD has experienced some difficulties maintaining a consistent reporting structure with Victoria Police for fraud referrals and liaison. This is due partly to an apparent lack of clarity from within Victoria Police regarding how and where to log fraud cases for police investigation. As discussed earlier, there is still a strong need for a more effective working relationship with Victoria Police; this would be particularly beneficial to governing information exchange, liaison and investigations, and further improving the reporting of MPTP fraud.⁸⁴

The VAGO also found that extended periods of time elapsed between some MPTP fraud cases being opened and investigated, including some major cases when this period extended for up to three years.⁸⁵ These findings are consistent with the findings of the inquiry in reviewing two major fraud investigations currently underway. One of these investigations has been going for approximately 12 months and the other for nearly three years. Both involve multiple instances of fraud against the MPTP.

The inquiry considers that the business intelligence methods used to identify fraud cases are not particularly sophisticated, with most cases being identified from manual data checking of MPTP transaction data provided in various data formats or from referrals from within the VTD, external law enforcement agencies or the general public.⁸⁶ The information systems and data surveillance processes utilised by the VTD should be enhanced to facilitate earlier detection of potential MPTP fraud, and quicker and more effective responses.⁸⁷

Until recently, the VTD's preferred approach to conducting MPTP fraud investigations has been to observe potential offenders and gather evidence for a potential police investigation, rather than engaging with offenders from the outset. A recent change in strategy in certain circumstances has occurred, whereby the VTD approaches suspected offenders and reminds them that MPTP fraud is a serious criminal matter and that they are being monitored. This approach can be a far more effective way of mitigating MPTP fraud from the outset, particularly for minor cases, which may then free up valuable resources to focus on more serious investigations.

Inquiry finding

➔ The responsibility of administering the MPTP imposes a substantial function on the VTD. Improvements to this function have been identified, but the VTD has been slow to implement them.

⁸⁴ Victoria Police did not provide a submission to the inquiry, so it has not been possible to gauge their views on this matter

⁸⁵ VTD Submission to the Inquiry, Op. Cit., p. 23

⁸⁶ *VTD Fraud Response Plan* (June 2011), provided to the Taxi Industry Inquiry by the VTD, p.5

⁸⁷ For example, most banks have sophisticated and automated fraud detection techniques, which electronically scan transactions and account data for certain anomalies, which are then highlighted to their fraud control team for action

Table 8.8 Elements of good regulator practice

Informing regulated entities and managing relationships	
Purpose	Elements of good practice
<ul style="list-style-type: none"> • Make compliance with regulation easier and less costly for the regulated and maximise levels of compliance • Make the administration of regulation transparent to facilitate trust between the regulator and regulated entities • Engender the confidence of regulated entities and the public in the regulation and the regulator 	<ul style="list-style-type: none"> • Providing to individuals/businesses intending to participate in regulated activities, and those already regulated, information and guidance on what is required for them to comply with regulation that is accurate, easy to understand, comprehensive, timely and regularly reviewed and updated • Publishing a statement or charter of the regulator's role, obligations and commitments in relationships with regulatees • Publishing the regulator's risk assessment approach and compliance and enforcement policies • Documenting and providing all regulatory decisions and investigations/assessments of compliance to the relevant regulated entities and making appropriate documentation of formal regulatory decisions available on request to stakeholders • Organising regular formal meetings, with clear, agreed terms of reference, with key stakeholders to exchange information, obtain empirical data and provide feedback on regulatory matters • Conducting ad hoc meetings, seminars and discussion groups with selected stakeholders on specific regulatory issues
Licensing and accrediting industry participants	
Purpose	Elements of good practice
<ul style="list-style-type: none"> • Mitigate and manage risks to the achievement of the policy objectives of regulation • Enhance the achievement of policy objectives by denying market entry to individuals/businesses assessed as not meeting regulatory requirements • Enhance the achievement of policy objectives by increasing the likelihood that providers of commercial passenger vehicle services meet specified safety and quality service-provision standards 	<ul style="list-style-type: none"> • Providing readily accessible, comprehensive and easily understood guidance material explaining the responsibilities of applicants and the regulator, timelines of key steps and practical examples of the type of information required that may assist the applicant complete the form correctly • Providing well-designed application forms so that applicants are clearly directed and assisted to provide the information and documentary evidence required • Providing an efficient electronic application facility to reduce the volume of paper, preparation and submission time, processing time and the frequency of errors • Nominating and providing a single point of contact through which application, transfer and assignment information requests and response are coordinated • Where resources availability permits, separating responsibility for conducting pre- and post- market entry compliance assessments • Documenting and publishing decision-making procedures • Providing applicants with documented decisions, including the reasons behind decisions • Subjecting the entry approval decision-making process to peer review before notifying applicants of decisions to ensure established procedures were followed and complete information was available in arriving at decisions • Subjecting decisions to timely and easily accessible internal merits review on request by applicants

Complaints handling

Purpose	Elements of good practice
<p>Complaints by consumers about regulated entities or by regulated entities against others:</p> <ul style="list-style-type: none"> • Providing information to the regulator to assist it identify risks to the achievement of policy objectives • Providing a mechanism for potential redress for consumers experiencing detriment in using commercial passenger vehicles • Encouraging regulated entities to comply with regulation. <p>Complaints by regulated entities or the public against the regulator:</p> <ul style="list-style-type: none"> • Establish transparency and fairness in the relationship between regulated entities and the regulator • Reinforce the regulator's accountability for its service standards. 	<p>Key elements common to complaints against regulated entities and the regulator:</p> <ul style="list-style-type: none"> • Publishing easily understood information on complaints processing, particularly how to lodge a complaint and defined timeframes for the investigation and resolution of complaints • Complaints are prioritised and sufficient resources allocated for the investigation and resolution of the highest priority complaints • Where a complaint cannot be resolved within the stipulated time, the complainant should be formally notified and given an expected response date • The complainant is formally notified of the regulator's findings and action if any that is to be taken to address the complaint. <p>An additional element of good practice in handling complaints against industry participants:</p> <ul style="list-style-type: none"> • Systematically utilise information obtained through receiving complaints to inform risk assessments and risk-related compliance strategies. <p>An additional element of good practice in handling complaints against the regulator:</p> <ul style="list-style-type: none"> • Establish a mechanism to ensure that lessons are distilled from complaints investigations and resolutions, and are incorporated into the regulator's administrative practices.

Monitoring compliance

Purpose	Elements of good practice
<ul style="list-style-type: none"> • Determine the extent of compliance with regulation among regulated entities • Inform the regulator's information provision and education activities • Maximise compliance by regulated entities in order to achieve the policy objectives of the regulation 	<ul style="list-style-type: none"> • Formulate a monitoring strategy that: <ul style="list-style-type: none"> – is based on a transparent risk-assessment methodology; – can be implemented with available resources and with an acceptable level of residual risk; – recognises the costs it imposes on regulated entities; – is responsive to changing regulatory risks; – is documented; and – is publicised externally to industry and stakeholders. • Determine the frequency of compliance assessments with regard to: <ul style="list-style-type: none"> – the nature of the activities being regulated; – the potential consequences of non-compliance; – the operating environment and technological dynamics of the market(s) being regulated; and – the compliance histories of regulated entities. • Establish a balance between the resources able to be devoted to monitoring activities and the level of activity necessary to be reasonably assured that entities are meeting regulatory requirements. • Consider the cost burden the strategy is likely to place on regulated entities and, where possible, aim to minimise these costs, without undermining capacity to effectively monitor compliance. • Ensure the strategy is sufficiently responsive to react to sudden changes in regulatory risks and to adjust the strategy over time to ensure it remains effective and targeted at the highest regulatory risks. • For any given monitoring activity, identify and document: <ul style="list-style-type: none"> – an objective for the activity; – priority regulatory requirements to be assessed; – the resources required to conduct the activity; and – a detailed timetable that allocates resources to assessment tasks. • Decisions on entities' compliance status need to be made in a timely manner so that, in the event non-compliance is found, regulatory actions can commence immediately. • Compliance assessments and decisions should: <ul style="list-style-type: none"> – demonstrate consistency; – involve processes that are well-defined and understood by regulated entities; – be timely and well documented; and – be formally notified to entities, along with the reasons for them.

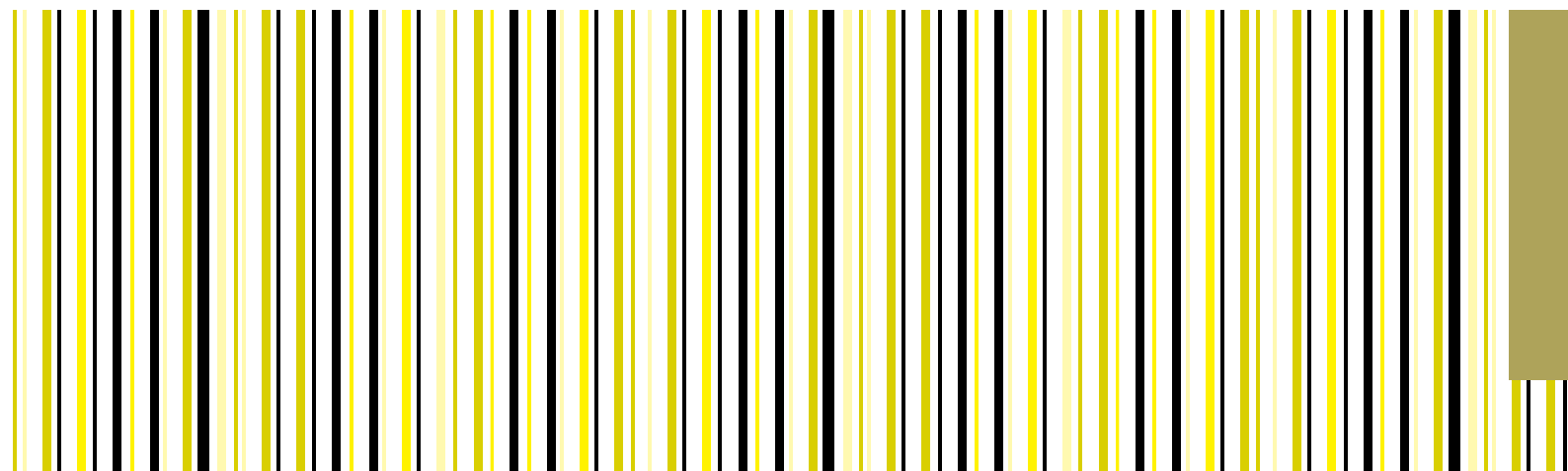
Enforcing compliance

Purpose	Elements of good practice
<ul style="list-style-type: none"> • Encourage ongoing compliance through the application of incentives and graduated sanctions appropriate to the circumstances of non-compliance • Address the most serious risks associated with non-compliance with timely, and possibly, punitive actions • Manage the return of non-compliant regulated entities to compliance 	<ul style="list-style-type: none"> • Responses to non-compliance are flexible and targeted at the highest priority risks posed by non-compliance. • Enforcement actions are graduated and based on the principles that they should: <ul style="list-style-type: none"> – be proportionate to the risks posed by non-compliance; – recognise the capacity and motivation of the non-compliant entity to return to compliance; and – signal the seriousness with which the regulator regards the non-compliance. • The regulator's enforcement policy is readily available and easily understood by regulated entities. • Appropriate training is provided to front-line staff to ensure that the enforcement policy is delivered consistently 'on the ground'. • Enforcement actions are timely, fully documented and the offending entities understand why enforcement actions occur. • Enforcement actions are followed-up to ensure that regulated entities know what is expected of them and that the desired change in behaviour is established. • Decision-making on disciplinary actions is transparent, particularly including the provision of the reasons for decisions to the offending entities and notification of their rights to reviews of decisions. • Data on the application and outcomes of enforcement actions is fed into the regulator's risk assessment and prioritisation process. • The regulator regularly evaluates the outcomes of enforcement actions to ensure consistency in application and that desired changes in the behaviour of regulated entities are occurring. Information about completed actions and evaluations is provided to stakeholders, including other relevant regulators, industry organisations and consumers.



Part D

Understanding industry performance



Chapter 9.

9. Alternative visions and approaches to taxi regulation

Key messages

- Worldwide, there are different approaches being used for taxi and hire car regulation. This gives Victoria an opportunity to learn from good and bad experiences in overseas cities and countries.
- There is an international trend towards relaxation of regulatory controls that is consistent with open entry, setting maximum fares and an emphasis on improving driver and vehicle quality. In this context, while all systems involve regulation, the role for government and areas for regulatory focus vary widely between the highly restrictive and more open schemes.
- In markets that have removed controls on entry to the taxi market, entry has usually been much greater than anticipated at the time of entry relaxation. This may reflect a number of different factors, including a significant level of unmet demand, fares being set too high and over-optimism by drivers who want to become operators.
- Based on available information, the inquiry's view is that closed entry systems offer no discernable benefits over open entry systems in terms of better service quality or better remunerated drivers, but they have fewer taxis and likely higher levels of unmet demand.
- Few international jurisdictions have access to the depth and detail of information that is required to fully assess industry performance.
- Better taxi and hire car systems make more effective use of competition and promote efficiency.
- Technology has the potential to greatly increase competition and efficiency.
- Generally, while the immediate aftermath of entry liberalisation can be disruptive, the availability of taxis, service quality and the range of services offered improves over time, benefiting consumers, provided quality, safety and fare setting issues are dealt with appropriately in the new environment.

Victoria is not alone in seeking to improve the performance of its taxi and hire car industry. Many other places around the world have experienced similar problems with point-to-point transport services and a number have undertaken regulatory reform to address these concerns and improve services for consumers.

An investigation of Australian and international jurisdictions was carried out in accordance with the inquiry's Terms of Reference which require the inquiry to 'examine, evaluate and report on other models and new approaches in the taxi and hire car sectors both in Australia and overseas'. This chapter summarises a selection of approaches to undertaking regulatory reform of taxi and hire car services, as well as different visions for the structure and operation of these services.¹

Examining national and international models has enabled the inquiry to learn from the achievements and mistakes of other jurisdictions. This has assisted in forming the inquiry's core findings and recommending the right reforms to shape a successful future for Victoria's taxi and hire car industry.

9.1. Overview of global trends

Globally, there is no single 'best practice' model for regulation of taxi and hire car services. Different objectives are set and a variety of approaches adopted depending upon the political, spatial and demand characteristics of each place, as well as the general level of public transport services provided and extent of private vehicle ownership.

9.1.1. Basic approaches to regulatory reform

Essentially, there are two basic visions for taxi regulation: a restricted or 'closed entry' model and a liberalised or 'open entry' model. These visions frame the discussion about regulatory reform, with most of the approaches adopted in other jurisdictions falling somewhere along the regulatory spectrum between these two extremes.

Closed or restricted entry

Closed or restricted entry models involve government restrictions on the number of taxi vehicles allowed to operate in the taxi market (beyond any restrictions implied by safety or other considerations).

¹ For further information, see Jaguar Consulting Pty Ltd (2012), *Overview and analysis of possible transitional strategies: Moving from a tightly restricted supply model to an open entry taxi industry – Prepared for the Taxi Industry Inquiry*, available at the inquiry's website

The number of licences is restricted and additional licences are never issued or only issued periodically on an ad hoc basis or according to a predetermined demand formula.

A quantity restriction on licences is one of the most common forms of entry restrictions in taxi market worldwide. The rationale for quantity restrictions is often advocated as a means to correct for 'excess entry', stabilise driver incomes, control vehicle standards and deal with congestion and pollution.

All states and territories in Australia restrict the quantity of taxis permitted to operate, as do many international jurisdictions, including many cities throughout North America and Europe.

Closed entry models tend to be slow to adapt to changing circumstances. Because incumbents are protected at the expense of new entrants, the industry develops a strong interest in maintaining the status quo and becomes increasingly dependent upon regulation to underpin its survival. The evidence from places that have persisted with highly restrictive entry to taxi markets suggests the following:

- Licence values keep rising, as the new supply of licences rarely keeps pace with demand.
- Competition is highly restricted to protect licence values, including zoning restrictions and restrictions preventing hire cars from competing too closely with taxis.
- Innovation is stifled, because new ideas, services and technologies may also encourage competition (and threaten licence values).
- Regulation becomes increasingly intrusive in order to improve or maintain service quality, because insufficient competition and market incentives exist to naturally force industry participants to improve quality.
- Despite providing the on-the-ground services, drivers become marginal stakeholders in the industry, poorly paid and with few prospects of owning a licence or becoming long-term industry participants. This marginalisation gives them few incentives to improve service quality.
- Over a period of time, the industry starts to wither and become less viable, as there is little hope of expanding the taxi market or increasing taxi occupancy rates while those industry players who are protected by regulation look first to secure their own interests.

Open entry

Open entry markets have no restrictions on the number of licences, other than those that are required to fulfill minimum criteria related to service standards.

Well-documented examples of open entry regimes include Ireland, New Zealand, Sweden, the Netherlands and Singapore.

Generally, an open entry model offers a more dynamic long-term framework within which an industry can grow and expand:

- Licence values tend to be close to zero in an open market, undermining the market power of incumbents.
- Greater service differentiation occurs, with more incentives to provide the services consumers want.
- There is the potential for fewer barriers to price competition, as there are no licence restrictions bolstering artificially high prices.
- With no risks to licence values to take into account, and greater competition, there are more incentives for innovation and experimentation.
- Regulators can focus their efforts more on ensuring the safety of drivers and passengers, and on improving service standards, rather than regulating the number of licences in the market.
- Drivers have opportunities to become operators, giving them a greater stake in the industry, a long-term career path and greater incentives to improve service quality.

9.1.2. Summary of global approaches

While views about these basic models vary from place to place, there does appear to be a global trend towards a freer entry model, with most jurisdictions recognising that it will provide much better outcomes over the longer term. However, many governments acknowledge – or have learned from their experiences – that licence liberalisation may not be achievable in the short- to medium-term (due to particular industry conditions, historic factors or political considerations) and/or may need to be accompanied by regulation focusing on service quality and safety.

The various approaches adopted by Australian and international jurisdictions cover the spectrum of regulatory reform – with varying degrees of success. However, some trends are discernible:

- While most governments – and economists – prefer an open entry model, the practical impediments to implementing such a model can be significant. In particular, when licence values are high, governments may face difficulties in opening up entry due to strong resistance from incumbent licence holders.

- Licence liberalisation has generally produced positive effects for consumers in the form of improved availability of taxis, better service quality, reduced waiting times and a greater range of services offered. But it can be disruptive in the short term if it not delivered as part of a wider reform program.
- Minimum quality controls are needed to reduce the potential negative impacts of liberalisation and ensure adequate outcomes in the taxi industry post-liberalisation.
- The sequencing of reforms is important, with reform more likely to succeed where service and safety standards are established prior to relaxing entry requirements and where compliance with these standards is closely monitored post-liberalisation.
- The choice of fare regime accompanying liberalisation is critical to ensuring that there is not an 'oversupply' of taxis following liberalisation and that fares do not rise post-liberalisation.

These issues are examined in greater detail throughout this chapter.

9.2. Common approaches in other jurisdictions

Alongside various degrees of restriction on entry, the inquiry's examination of international jurisdictions reveals there are other common regulatory approaches used around the world. This section summarises these common approaches.

9.2.1. Fare regulation

Most places regulate taxi fares, even in open entry markets, albeit to different degrees. The rationale for regulating fares is that competition between taxis will not be effective while consumers face informational constraints and while certain market conventions act to limit competition – for example, the convention to take the first taxi off the rank.

As noted throughout this report, in any discussion of taxi markets, it is important to understand the difference between the rank and hail market and the pre-booked market for taxi services. The market failures mentioned above are evident predominantly in the rank and hail market. In the pre-booked market, consumers are usually better placed to 'shop around' to obtain the service they want at the 'right' price, making the rationale for fare regulation in the pre-booked market less compelling.

There are several main forms of fare regulation found in international jurisdictions:

- Regulated set fare schedule – where all components of a fare (flagfall, distance charge) are decided by government and service providers must charge according to the fare schedule. This is common in jurisdictions with restricted entry, such as New York.
- Regulated maximum fare – where government sets a maximum fare amount and service providers are free to charge less than the maximum (sometimes a minimum fare is established in addition to a maximum). All Australian jurisdictions, other than Victoria, have maximum fares set by government, where the driver can charge any rate at or below the metered fare.
- Fare notification – where industry participants (often taxi booking companies) are allowed to set their own fares, but must have the fare registered or approved with the taxi authority prior to it coming into force. For example, New Zealand requires Authorised Taxi Organisations (ATOs) to register maximum fares with the New Zealand Transport Agency (NZTA) and have these fares approved prior to coming into effect.
- Facilitated price comparisons, such as fare posting requirements – where service providers are free to choose the fares they charge; however, fares must be advertised or 'posted' on each taxi in a prescribed manner. In addition, some jurisdictions require fares to be pre-registered with the regulator. For example, while fares are deregulated in Sweden, there are guidelines and agreements for how fares should be displayed both inside and outside the taxi.

The following components of taxi fares are often (but not always) regulated:

- Flagfall
- Amount charged per unit of distance
- Amount charged per unit of wait time (applies if vehicle speed falls below a set speed)
- Booking fee
- Late night and holiday fees
- Fees depending on number of passengers, zone or area of operation.

A more detailed discussion on fare regulation and fare structures, including approaches taken in different jurisdictions, is included in chapter 20.

9.2.2. Quality and safety controls

Jurisdictions worldwide often regulate a number of aspects of quality and safety of taxi services. Most of these requirements are related to vehicles and drivers; however, regulating the services delivered by the booking networks is also common.

Quality and safety controls are used to ensure minimum standards in these areas. The rationale for quality and safety regulation is that consumers are not well placed to assess the quality and safety of the taxi service before they acquire it and this can lead to operators reducing service quality and/or safety if it will reduce their costs. This is particularly relevant in the rank and hail market. However, in the pre-booked market (to the extent that repeat business is important to the business model of the taxi service provider) the reputation of an operator is more important and can provide incentives to deliver quality and safety.

Common examples of driver standards include:

- Character of taxi industry participant (such as a background criminal check)
- Fitness of taxi industry participant (such as medical requirements)
- Geographical knowledge
- Professional competence
- Driver conduct (such as requirements to travel by the shortest route, wear a uniform, provide assistance to passengers and take the route requested by a passenger)
- Information requirements (such as roof and in-vehicle signage and driver ID display).

Vehicle standards commonly include:

- Vehicle equipment (such as meters and payment methods)
- Vehicle cleanliness
- Vehicle amenity (such as dimensions and number of passenger)
- Vehicle conditions (such as maintenance and maximum age requirements).

Common safety regulations include:

- Emergency duress systems
- Security cameras
- Driver protection barriers
- Vehicle roadworthiness.

9.2.3. Regulatory distinctions between taxis and private hire cars

Most jurisdictions have regulations that distinguish taxis from hire cars. Three common forms of regulatory distinctions are adopted by international jurisdictions:

- Taxis are allowed to perform rank, hail and pre-booked work, while hire cars are only allowed to perform pre-booked work.
- Taxis are only allowed to perform rank/hail work, while hire cars can only perform pre-booked work. This is quite uncommon: New York City and London are examples of this model.
- No distinction between taxis and hire cars. For example, when taxis were deregulated in New Zealand, all taxis and limousines became classified as Small Passenger Vehicles. In the Netherlands, Sweden and Singapore, there is no distinction between taxis and hire cars: taxis participate in both the booked market and the rank and hail market.²

9.3. Overview of licence and fare liberalisation in other jurisdictions

From the inquiry's examination of international jurisdictions, there is an emerging trend towards relaxation of regulatory controls consistent with open entry, maximum or monitored fares, and improving quality.

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.³

The prevailing impetus has been to promote taxi market competition through removing the onus on government to determine supply, demand and/or efficient prices and allowing market forces to play out.

² These markets have what is called a 'contract market' where taxis can also bid for public service contracts

³ OECD (2007), Taxi services: Competition and regulation, DAF/COMP(2007)42, p.8

Case study

Deregulation in Ireland

From 1978 to 1999, the Irish Government maintained quantitative restrictions on the number of taxi licences issued. Throughout this period, the number of licences issued failed to keep pace with the demand for taxi services and there was widespread customer dissatisfaction with the poor availability of taxis in peak periods.

Licence values in Dublin were in excess of IR£100,000 in 2000. Over the same period, there was strong growth in the number of hire car licences, which has no restriction on the number of licences issued.

In 1999, amid calls for deregulation of the industry, the Irish Government decided to increase the number of taxi licences by issuing 2,600 additional licence to existing licensees and 500 licences to new entrants, with preference given to current taxi drivers.

The Government's actions were challenged in the courts because of the preferential treatment given to current licensees over new entrants. The Irish High Court found that the Government did not have the power to restrict the rights of entrants where the criteria were unrelated to qualitative standards. Following this decision, the Government effectively removed quantity restrictions overnight.

The Government also determined that no compensation was to be paid to licence holders. This decision was also challenged in the courts, where the Irish High Court made it clear there was no legal obligation on the Government's part to compensate operators for losses associated with changes of licence value.

Further lobbying by former licence holders led the Government to establish a Taxi Hardship Panel to examine cases where extreme personal financial hardship was alleged as a result of these measures.

The panel did not consider compensation for loss of licence value as such; rather, it considered payments 'solace'. Total payments of about €16.5 million were made, which represented less than five per cent of the total cost of paying full compensation.

9.3.1. Entry controls

The OECD has observed:

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.⁴

Liberalisation of the taxi industry is invariably associated with the liberalisation of licences. This is usually done through a government removing the quantity control on the upper limit of the number of licences permitted to operate in its jurisdiction. In most cases, this means that anyone who complies with some predetermined criteria for applying for a licence (such as a background criminal check, payment of an administration fee and so on) is granted the licence. Removal of entry controls typically occurs in conjunction with relaxing fare controls.

One of the most discussed examples of deregulation of licences is Ireland, where deregulation was immediate – effectively occurring overnight (see case study). In 1999 a High Court decided against the Irish Government's approach to the release of new licences, citing that the government's action gave preferential treatment to current license holders over new entrants. The Government's response was to effectively allow the removal of quantity restrictions on licences.

The number of taxi licences increased significantly and waiting time for taxis reduced dramatically. At the time, however, there was no standardised fare system and limited quality standard controls. The sudden liberalisation of licences led to calls from the industry for the return of controls and for more effective quality regulation.

⁴ Ibid., p.7

Case study

New Zealand's experience

In 1989, the taxi industry for the whole of New Zealand was deregulated. Quantitative entry restrictions for taxis and limousines, now known as Small Passenger Vehicles, were removed. At the same time, fare controls were also removed, although maximum fares for each ATO have to be pre-registered with the NZTA and approved before coming into effect.

Following deregulation, there were complaints relating to small operators exploiting customers and poor service standards. Several measures were introduced – and later strengthened – to combat these problems, including the introduction of a requirement for licence holders to be affiliated to an ATO.

ATOs are now required to have telephone booking capabilities, provide a 24/7 service and maintain a register of complaints. Currently, ATOs must have in place operating rules that have been approved by the NZTA and must ensure that their members and drivers comply with these rules. While the NZTA provide draft rules, networks are allowed to adopt their own rules subject to approval.

Other measures introduced include the 'area of knowledge certificate' for new taxi drivers, responding to complaints about taxi drivers having poor geographic knowledge and poor English skills. A specialised Taxi Compliance Unit was established within the regulator to strengthen taxi enforcement and compliance following two reports by New Zealand's Auditor-General in 2005 and 2007.

The New Zealand experience highlights the importance of quality regulations and effective enforcement following the removal of entry restrictions. Despite the initial undesirable experiences of entry deregulation, the strengthening of quality regulations and enforcement has produced generally positive results for the New Zealand taxi industry.

The OECD observed that:

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.⁵

Similar approaches to deregulation had been adopted in several US cities, which deregulated their taxi markets during the 1970s and 1980s (having limited the number of taxi vehicles since the 1930s). An examination of the US experience found that, of the cities that deregulated entry and fares, taxi numbers significantly increased but fares also increased in real terms.⁶ This approach was later viewed as less than successful, although it was noted that a modified approach to deregulation via entry standards (as opposed to quantity controls) and maximum fares could improve benefits from deregulation.⁷ Some US cities have since re-regulated taxis and open entry in the larger US cities remains the exception.

Freeing up entry does produce some positive service quality outcomes, such as improving the availability of taxis and thus reducing waiting times. However, driver and service quality can deteriorate, particularly if supportive quality controls are not present. Other market inefficiencies, such as lack of fare competition can also arise in situations where entry deregulation is not supported by other means of regulatory constraints – complementary reforms may be needed to facilitate fare competition.

5 OECD (2007), Op. Cit., p.237

6 Teal, R. and Berglund, M. (1987), 'Impacts of Taxi Cab Deregulation in the USA', *Journal of Transport Economics and Policy* 21

7 Ibid.

More recently in the United States, a number of cities have moved to open market arrangements while maintaining fare and quality controls (such as Indianapolis and Minneapolis). Phoenix and Washington DC also maintain open markets.

9.3.2. Fare controls

The experiences of other jurisdictions suggest that the relaxation of licence controls does not necessarily result in the full realisation of anticipated competitive and efficient markets. Fares do not invariably decrease if fare controls are relaxed or removed. These experiences have highlighted the need for jurisdictions to be aware of the interaction between fares and entry controls at the time of deregulation.

For example, the Netherlands deregulated its taxi industry during the period 2000 to 2002. During this time, a new national maximum fare was introduced temporarily, with the intention of protecting consumers from any initial excessive price rises as a result of licence liberalisation. The Government's expectation was that competition would increase and the maximum fare could then be removed. However, the outcome was an increase in fares – the national maximum fare was actually set relatively higher than the average fare under the previous regime and this allowed operators the freedom to charge higher fares.⁸ The effect was that, while the availability of services improved with an increase in taxi numbers, fares under this scheme also increased to close to the maximum fare.

On the other hand, New Zealand allowed industry participants to set their own fares when it deregulated entry and fares (see case study). However, maximum fares for each taxi organisation have to be registered with and approved by the NZTA before coming into effect. Fares are calibrated on the meter and information on fares displayed inside and outside the taxi. Early studies suggested that the effects were generally positive. These studies found that in New Zealand's large cities, entry increased but real fares decreased.⁹ The inquiry's view is that, broadly, the relaxation of fare controls in New Zealand has allowed innovation and price differentiation to a degree. While a common approach to structuring fares is required, ATOs can emphasise different elements of the fare structure. The public tend to focus on the flagfall and distance rates, but the inquiry found there were significant differences in overall fares due mainly to the effect of waiting time changes.

The lack of readily comparable fare information seems to be an issue in New Zealand.

Singapore adopted a similar approach to New Zealand when it deregulated fares in 1998 and maintained this position during the subsequent deregulation of licences in 2003 (see case study). Each taxi network is free to set their own fares provided that the network informs the government and the public to ensure the predictability of the fares.

However, the behaviour of the market seems to suggest not as much competition on fares as this approach implies, partly due to the indirect effects of limiting licences – and thus competition – through Singapore's private and commercial vehicle permit system and minimum fleet size requirements. The current largest taxi network effectively acts as a market leader: it sets prices and the other networks generally follow. To cope with increased demand for its services, the largest taxi network recently revised its fare structure rather than purchase new licences, which will most likely result in higher fares.¹⁰ The Singapore example emphasises that, even where there are several taxi networks competing on a range of dimensions, competitive outcomes on fares can be tenuous. Regardless, a 2008 Singapore Government report suggested that fares in Singapore are relatively low, on a purchasing power parity basis, compared to other major cities.¹¹

8 Baanders, B. and Canoy, M. (2010), 'Ten years of taxi deregulation in the Netherlands – the case for re-regulation and decentralisation', European Transport Conference, Glasgow, p.3

9 See for example Gaunt, Clive (1996), 'The impact of taxi deregulation on small urban areas: some New Zealand evidence', *Transport Policy*, 2(4), pp.257-262

10 See 'ComfortDelGro revises taxi fares', 5 December 2011, accessed 29 March 2012 at www.channelnewsasia.com/stories/singaporelocalnews/view/1169537/1/.html

11 Comparative prices in 2008 for a 9km journey during morning peak times were Singapore S\$9.39; Hong-Kong S\$12.35; London S\$24.56; and New York S\$14.62: Singapore Land Transport Authority (2008), *Land Transport Masterplan*, p.17

Case study

Singapore's unique regulatory regime

In 1998, Singapore removed taxi fare controls. Previously, maximum fares were set by an independent Public Transport Council (PTC). Currently, while the taxi networks are allowed to set their own fares without having to seek the PTC's approval, they must give advance notice of the fare adjustments to the PTC and the public.

In 2003, the Government removed quantity entry restrictions on licences. However, while there are no quantity restrictions on the number of taxi licences in the market, taxi licences are only released to taxi networks. A minimum fleet size also applied, with taxi networks in Singapore required to have acquired 400 taxi plates within the first four years of commencement. The inquiry is aware that consideration is being given to increasing this number to 800 in the near future.

Networks are also subject to conditions when obtaining a new taxi licence, including Quality of Service Standards. Performance against these standards is monitored monthly and audits are conducted every two years. Taxi network performance is published on the regulator's website. Networks failing to meet the standards required may be subject to financial penalties and possible suspension or revocation of licences.

Only drivers over 30 years of age are allowed to obtain a licence to drive a taxi and are subject to a demerit penalty point system, as well as fines for scheduled offences. The limited supply of drivers and significant union representation has meant that drivers can earn a decent living.

In the seven years prior to entry deregulation, licences increased by 14.5 per cent; in the seven years following the removal of entry restrictions, licence numbers increased by 35.1 per cent. Since 2003, only four new networks have entered the market and there are frequent allegations of price leadership and collusion between networks.

The relaxation of entry restrictions has not increased taxi numbers dramatically, as experienced in other places. This is partly due to the requirement that all private and commercial passenger vehicles in Singapore must obtain a permit to operate under its congestion plan (known as a Certificate of Entitlement) and these are limited. The cost of this is currently upwards of S\$56,000. When combined with the minimum fleet size of networks, this makes new entry difficult.

The 1990s saw a number of US cities revisit or alter their focus in terms of open entry markets. A study commissioned by the inquiry notes that, rather than maintaining a completely liberal regime on entry and fares, some US cities began to introduce some level of fare and/or quality and safety regulations.¹² For example, Indianapolis and Minneapolis moved to an open entry regime in the 1990s and 2011 respectively, while being conscious of the experiences of deregulation in a number of US cities in the 1970s. Being aware of the potential for excessive increases in fares, both jurisdictions maintained maximum fare regulation and in Indianapolis, fares were required to be posted. Washington DC, while maintaining an open entry regime, continues to regulate taxi fares.¹³

The inquiry concludes that while some positive results of removing fare controls were realised, it is clear that some regulatory parameters in relation to fares need to be considered in the context of an open entry taxi market. This will include the degree of controls on fare levels (such as maximum fares), transparency and predictability (such as providing fare information to the public), structure (using a consistent approach to defining the different structural elements of fares) and monitoring (such as the pre-registration of fares).

¹² Hara Associates (2012), *Taxicab regulation in North America (Final)* – Paper prepared for the Taxi Industry Inquiry, pp.15-16

¹³ Washington DC recently froze the issue of new licences to independent taxis, but existing networks can still add vehicles to their fleets

9.3.3. Quality and safety controls

In its assessment of taxi regulation regimes, the OECD noted:

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.¹⁴

Jurisdictions examined by the inquiry have taken different approaches to liberalisation by including in their approaches the introduction, maintenance or indeed strengthening of quality and safety regulations to encourage improvements in quality and safety standards.

In New Zealand, quality controls were imposed on standards for vehicles, driver competence and operator performance prior to liberalisation. These controls were maintained following liberalisation and strengthened several years into the reform. Today, new licence holders are subject to a 'fit and proper person' test and are required to be affiliated with an ATO, with ATOs subject to a number of minimum quality standards. Taxi drivers are subject to background criminal and annual medical checks, must pass a first aid course and must hold an 'area knowledge certificate' for the area in which they operate. Specialist taxi enforcement staff conduct regular checks on vehicle compliance with requirements.

In Sweden, despite liberalisation of entry and fares in 1990, quality controls were reinforced. Applicants were subject to more rigorous assessments in relation to competence in operating a taxi service, as well as their economic capacity and character. In 1995, stricter rules for drivers were introduced, with drivers subject to geographical knowledge tests and criminal checks. Sweden is considered to be one of the jurisdictions with the strictest requirements on taxi drivers.¹⁵

The Singapore Land Transport Authority introduced a new set of Quality of Service Standards to ensure minimum service standards at the time of deregulating entry controls in 2003.

In Phoenix, problems with service standards following entry and fare deregulation during the 1980s led to Arizona deciding to introduce background criminal checks for taxi drivers.

There is a common theme that some minimum quality and safety controls are necessary to ensure adequate outcomes in this industry. As the OECD has observed: "deregulating taxi supply does not, in conceptual terms, necessarily imply removing or even downgrading quality regulations".¹⁶

Indeed, quality regulations are critical to maintain higher quality services and avoid excessive entry (which lowers standards where competition is ineffective). For example, this has worked in London where, despite open entry, the barrier to entry via stringent quality controls on drivers (such as 'The Knowledge' test) and administrative delays still creates positive service outcomes (see case study). New Zealand's ATO model also ensures there are minimum quality standards in the taxi industry.

The same arguments apply to the need for safety regulations, particularly due to asymmetric information about the safety of the taxi vehicle, driver and/or passenger prior to the service being delivered. It has been argued that entry restrictions themselves do not ensure safety standards for taxis, and well-targeted safety regulations are more appropriate.¹⁷

Different jurisdictions have maintained, reinforced and, in some cases, removed specific quality and safety controls. The inquiry considers that the level and effectiveness of these controls need to be well-considered and well-targeted.

14 OECD (2007a), Op. Cit., p.10

15 OECD (2007a), Op. Cit., p.48

16 Bekken, J.T. (2007), 'Experiences with (De)regulation in the European taxi industry', in OECD (2007a), *(De)regulation of the taxi industry*, Economic Conference of Ministers of Transport, Round Table 133, p.48

17 Productivity Commission (1999), *Regulation of the Taxi Industry*, Ausinfo, Canberra, p.12

Case study

London's quality controls

London is often cited by taxi users, industry experts and others as providing a high quality commercial passenger vehicle service. During the course of the inquiry, many people referred to the London model as one that could offer Victoria lessons in developing a better quality taxi and hire car industry.

London has over 23,000 licensed taxis and 25,000 licensed taxi drivers. The city has a unique regulatory scheme: taxi numbers are not capped but barriers to entry are especially high because of the 'The Knowledge' test, which requires taxi driver applicants to have an intimate knowledge of London's geography. All taxi drivers must complete 'The Knowledge' and applicants can test for approval to drive either within the entire Greater London area or a smaller suburban zone. Studying to pass the All-London Knowledge test requires a commitment of at least two to three years. The inquiry has been told that the current average time for completing the test is stretching out to around four years. It is understood this is due to demand from drivers and administrative delays.

Greater London area applicants need to have a detailed knowledge of London within a six mile radius of Charing Cross. Drivers have to learn 320 routes and landmarks and places of interest along these routes. They must also know all routes in reverse due to changed traffic conditions in different directions. Applicants who choose to be licensed in suburban zones must know between 30 and 51 routes in detail.

The Knowledge exam consists of a written test and a series of interviews where applicants have to be able to answer a series of practical questions about taxi journeys and routes. This is followed by a practical driving examination.

London taxi services consistently record high levels of customer satisfaction. According to the 2011 annual taxi report compiled by Hotels.com, London recorded the highest level of customer satisfaction of any city for the past four years, despite London taxis being the most expensive. The survey measured cleanliness, friendliness, driving quality, knowledge of area, safety, availability and value for money.

It is generally recognised that 'The Knowledge', in combination with the fact that drivers are effectively allowed to be 'their own bosses', plays a central role in promoting high quality taxi standards in London.

9.3.4. Structural considerations – taxi networks

An important consideration is the role that taxi networks play in different jurisdictions. Taxi networks have historically performed the role of providing telephone booking services to their associated taxis, but increasingly are required to take responsibility for the quality of taxi services.

A requirement for taxi operators to be affiliated to a network may be an important element in an open market regulatory framework, although there are examples of open markets (such as London) where mandatory network affiliation does not apply. In some instances, it may be that being an independent operator in an open market affords the driver a sense of anonymity that could hinder the desire to deliver high quality services. This may be the case more strongly in the rank and hail market where the incentives to deliver high quality services through repeat business are negligible. In these cases, greater involvement of the industry regulator may be required to ensure standards are met.

Following deregulation in the Netherlands and Sweden, taxis were not required to be affiliated with a taxi booking network. With deregulation came an increase in taxi availability in these jurisdictions. In the Netherlands, operators were effectively allowed to charge up to a higher maximum fare. The fact that operators were required to inform consumers of the fares prior to the trip did not prevent fares from rising. With independent operators, consumers found it difficult and impractical to make comparisons of fares and competition did not result.

In Singapore and New Zealand, there are no quantity restrictions on taxi licences and there are high quality controls placed on taxi networks including specified minimum service requirements. All operators (other than a small number of remaining independents in Singapore) must be connected with a network. Operating rules set by the networks must be approved by the regulator, including the requirement for booking networks to have telephone capabilities, provide a 24/7 service, deal with complaints and keep records. In these jurisdictions, taxi networks are clearly understood to be responsible for delivering quality services.

Case study

Northern Territory – Deregulation

In 1999, following the National Competition Policy review, the Northern Territory became the first and only jurisdiction in Australia to remove quantity restrictions on taxi licences.

The approach to deregulation in this instance constituted a licence buy-back and reissue scheme:

- Existing licences were bought back at a price based on the last tendered price of a taxi licence in the particular area plus CPI – in Darwin the price was \$95,000 per licence.
- Licences were then reissued on demand (no quantitative limit) for an annual licence fee – the annual licence fee in Darwin was \$16,000 – with this cost planned to be removed after the costs of ‘compensation’ (that is, the initial buy-back) were recouped.

However, the annual licence fee has remained and continues to be charged some 13 years after the initial removal of supply restrictions.

Taxi numbers increased immediately after deregulation, improving taxi availability. However, by the end of 2001 and with the election of a new government, the open entry regime was quickly reversed and a temporary cap on the number of commercial passenger vehicle licences put in place. The new Northern Territory Government cited poor returns and poorly trained and motivated drivers as the main reason for this reversal. Interestingly, the Government also declared that the reversal was needed before specific issues relating to poor quality standards were addressed. This cap has since been made permanent for Darwin and Alice Springs, with open entry permitted elsewhere.

While some commentators cite the upheaval following deregulation in the Northern Territory as an argument against open entry regimes, the somewhat hasty and short-sighted reversal of deregulation in this case may not have allowed the benefits of deregulation enough time to filter through the system to consumers.

9.3.5. Innovation

Regulation should not inhibit the growth of new services and innovation. Flexibility in regulating taxi services post-deregulation is important to maximising the consumer benefits expected to arise from competition and efficiency gains resulting from the removal of licence and fare restrictions.

For example, in terms of fare controls, the OECD observed that “if price regulation is to be retained 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.”¹⁸

New Zealand provides a good example where, after liberalising entry and fare controls, service innovation flourished, with the introduction of specialised services, innovative payment systems and advertising.¹⁹

In contrast, deregulation in US cities in the 1970s and 1980s apparently led to little innovation or the introduction of price-service combinations in the taxi industry. This highlights a need to actively focus on and facilitate competition and innovation in an open market.

¹⁸ OECD (2007), *Op. Cit.*, p.43

¹⁹ Soon, J. (1999), ‘Taxi!! Reinvigorating competition in the taxi market’, *Issue Analysis*, Centre for Independent Studies, NSW, p.7

9.3.6. Making the transition

The experiences of jurisdictions that have liberalised taxi licences suggest that the design of transitional arrangements is important.

The inquiry observed that, in many cases, it takes some time for competition and efficiency outcomes of liberalisation to be realised. While many jurisdictions experienced significant periods of unrest in the aftermath of liberalisation, sometimes resulting in a regulatory void in cases where deregulation was wide-reaching and occurred immediately, the long-term results have generally been positive. This reinforces discussion in the previous sections about the importance of a supportive regulatory environment during efforts to deregulate.

The inquiry is also aware that jurisdictions can take different approaches to the *timing* of reform, primarily electing to either adopt an immediate or staged approach to reform.

A report commissioned by the inquiry notes that six OECD countries have removed quantitative entry restrictions from their taxi regulatory structures in the last two decades, while open entry conditions are also evident in the cities of other countries.²⁰ In each case, the removal of entry restrictions has occurred through a single reform initiative, rather than through a process of staged reform. For example, New Zealand and Ireland effectively deregulated entry across the entire country immediately and these jurisdictions saw an immediate increase in taxi numbers, accompanied by some service issues that were later addressed.

A staged approach to liberalisation is likely to be adopted by jurisdictions that want to minimise or distribute the losses experienced by taxi industry incumbents, while also allowing consideration of other pre-conditions of reform that are necessary for their particular jurisdictions. It is often argued that a staged approach is more open to being stymied by any changes in the political environment and provides more opportunities for vested interests to lobby against enduring change; however, a staged approach to reform does allow continuing adjustments to price, quality and safety controls in response to any changes in the taxi and hire car environment.

Another aspect of deregulation is whether the government pays compensation to licence holders if reform causes significant declines in licence values. In many jurisdictions, licences are valuable investments. For example, Ireland taxi licences were worth more than IR£100,000 in 2000.²¹ While there was no legal duty for compensation to be paid in the Irish case, a Taxi Hardship Panel was established to consider applications for assistance (see case study). The Irish Government also put in place other measures that included a buy back of those licences most recently purchased and allowing losses to be written off as tax deductions for a set period. In New Zealand and the Netherlands, no compensation was paid to taxi licence holders. In the Northern Territory, a buy-back program of licences was established (see case study).

9.4. Key themes

Some key themes emerge from the inquiry's examination of international jurisdictions. These are discussed in the following section.

9.4.1. Different approaches

Worldwide, there are different approaches being used for taxi and hire car regulation. This gives Victoria an opportunity to learn from the good and bad experiences in overseas cities and countries.

Looking overseas, the basic regulatory tools available include control of entry, fares, quality and safety. Other regulator controls cover structural issues, such as affiliation and minimum fleet size. Each jurisdiction examined had adopted varying combinations of the above controls with mixed results. There has not been a strong focus on the role of competition-based policy to achieve better service standards in the closed entry systems – or in some open entry systems. Although there does not appear to be a 'best approach model' that has worked internationally, the experiences do provide insight into the outcomes that are likely to result from distinct regulatory approaches.

9.4.2. Focus on prices and quality

Relaxing entry controls is by itself not a panacea for delivering efficient and competitive markets. An additional focus on what happens to prices and quality of service post-liberalisation is required.

Overseas experiences indicate that the relaxation of entry controls does not, in and of itself, solve taxi competition and efficiency issues. The key learnings from the inquiry's examination of international jurisdictions that have liberalised entry controls is that these controls need to be relaxed as part of a broader and more strategic approach to reform, one that continues to require a role for government in some areas of regulation.

An additional focus on fares, quality and safety of service is required. The maintenance of sufficient fare, quality and safety controls appears necessary to promote a well-functioning market: quality and safety controls are needed to maintain higher quality and safer services, while controls to limit fares may be needed to avoid excessive entry if competition does not function effectively to reduce fares.

9.4.3. Role for government

All taxi regulatory systems studied by the inquiry maintain a role for government. In this context, while all systems involve regulation, the role for government and areas for regulatory focus vary widely between the highly restricted and more open schemes.

²⁰ Jaguar Consulting (2012), Op. Cit., p.46

²¹ OECD (2007), Op. Cit., p 131

In restrictive markets, the regulator is usually highly prescriptive when enforcing taxi regulations and monitoring taxi services. This is not surprising, as restrictive taxi market schemes naturally result from government intervention. For example, the role of government in the more restrictive markets, such as New York City and other Australian States and Territories, is to control the number of licences via licensing regimes, set fares and prescribe quality and safety standards.

Even in less restrictive markets, specifically those with deregulated entry restrictions, governments still play a role in regulating the taxi industry. However, the role of government in these regimes is less focused on regulating the 'static' taxi parameters, such as quantity and fare controls, and more focused on regulating quality and safety outcomes. A distinction can be made between quality and safety *outcomes* and quality and safety *standards*. Standards can be highly prescriptive, particularly in relation to vehicles, and may cover such things as vehicle types, size and age. These standards are very common in restricted taxi markets that maintain quantity controls. Outcomes can be thought of as something broader, where the specifics of the services and safety controls are left to the industry participants, with only broad quality and safety outcomes guided by the regulator.

The open entry taxi markets of New Zealand and Singapore maintain a role for government in the form of setting *outcome-focused service standards* for booking networks companies, while at the same time providing greater scope for competition between networks – such as allowing the networks to differentiate their services: for example, 'environmentally friendly' taxis in New Zealand.²² The actual quantity parameters, such as supply of taxis at particular times and fares, are mostly left up to the industry participants.

In contrast, New York, which maintains controls on the number of taxi vehicles available, has also mandated the type of vehicle that can be a taxi. The New York Taxi and Limousine Commission (TLC) has announced that the Nissan NV200 minivan will be the new official taxi in New York, with current taxis to be phased out by 2018.²³

It is not always clear how jurisdictions have arrived at the split of regulation between the relevant government authority and industry itself to achieve positive performance outcomes.

9.4.4. Higher than expected entry

In markets that have removed entry controls, entry has usually been much greater than anticipated at the time of the entry relaxation.

In all jurisdictions where entry restrictions have been removed, the number of taxi vehicles increased, sometimes more than expected by the government of the day. The possible reasons for this are outlined below:

One probable explanation is that there was **a significant level of unmet demand prior to deregulation**. However, it has been difficult for the inquiry to establish this by solid evidence relating to pre- and post-liberalisation trip numbers. The inquiry found no studies of liberalisation that were able to accurately measure the change in the total number of trips following the move to open entry – there was simply no reliable data on any changes in consumer demand post-liberalisation. While an Irish report found that liberalisation of licences resulted in an 82 per cent increase in trips in Dublin between 1997 and 2008, this is based only on survey data from Dublin households rather than actual trip data.²⁴ Other studies on jurisdictions that have deregulated are also lacking in reliable information in this respect.²⁵

However, there is a strong expectation that the number of taxi licences issued by government in a closed entry market is not optimal. Indeed, the effects of quantity entry restrictions is that they prevent entry that otherwise would occur in an open entry market. In doing so, the inquiry expects that some trips that would be covered at times of peak demand are not covered under a quantity entry regime.

Some studies have reported a decline in productivity or vehicle utilisation and have implied that consumer demand did not increase following deregulation.²⁶ However, a drop in vehicle utilisation does not necessarily mean that consumer demand did not increase as a result of greater taxi availability. It may be that the increase in entry was such that it dampened any indications that demand increased: that is, the percentage increase in taxi numbers may have been more than the percentage increase in consumer demand – this will result in an observed decrease in productivity, at least in the short term. Indeed, increases in fares may have diminished some increases in consumer demand.

²² Green Cabs, accessed at: www.greencabs.co.nz/

²³ Chapter 15 includes a description of the process adopted by New York to decide on its new taxi vehicle

²⁴ Goodbody Economic Consultants (2009), Economic review of the small public service vehicle industry, Commission for Taxi Regulation, Ireland, p.18

²⁵ For example, the OECD reported that, following deregulation in the Netherlands, trips had fallen but passenger kilometres had risen. The inquiry finds this outcome incongruous. See OECD (2007), Op. Cit.

²⁶ Kang, Choong-Ho (1998), *Taxi deregulation: International comparison*, Dissertation, University of Leeds, accessed 29 March 2012 at: www.taxi-library.org/kang0898.htm

Another possible explanation for higher entry than anticipated is that **fares that are too high, encouraging too much entry**. Open entry is likely to eliminate licence values, which were previously incorporated in fares. If fares are not reduced in line with the removal of this element, then profit margins for operators will increase. As a result, new entrants will be attracted to the market, exacerbating the effect of moving to an open market.

The Netherlands provides a good example of this, as maximum fares were set relatively higher than the average fare prior to removing entry controls, encouraging significant entry into the market.

A third explanation for higher than expected entry is that **new entrants may suffer from an 'optimism bias' in relation to potential earnings** in the taxi market. Taxi driving is a relatively accessible occupation with low cost of entry, particularly in a completely deregulated market – all one needs is a car and a driver's licence. This, combined with the fact that there may be no information available in the short term to potential drivers of likely earnings in a newly deregulated market,²⁷ means that new entrants may be overly optimistic of their potential earnings, resulting in an initial period of excessive entry into the market.

Some have noted the potential role that government can play in providing information about driver earnings to the market, particularly during a time when deregulation can create significant upheaval.²⁸

9.4.5. Service and driver benefits

Based on available information, the inquiry's view is that closed entry systems offer no discernable benefits over open entry systems in terms of better service quality, lower fares or better remunerated drivers, but they have fewer taxis and likely higher levels of unmet demand.

It is clear that relaxing entry controls has generally resulted in an increase in the number of taxis. As previously mentioned, while there is little data on any changes in the number of trips taken by consumers following liberalisation, there is an expectation that closed entry regimes will experience a high level of demand that is not being met, particularly during peak periods.

It is often contested that removing entry controls increases fares, as falling vehicle productivity will increase costs per vehicle, with the Netherlands, Sweden and some US cities reporting increases in fares following deregulation. However, there have been few comparisons between fares of open entry and closed entry regimes.

The inquiry compared taxi fares between Melbourne, Sydney, New York, Paris, London, Dublin, Auckland, Wellington, Stockholm and Singapore. Where networks are free to set their own fares, the larger networks' fares in each jurisdiction were used as a proxy for the fare for the whole jurisdiction.²⁹ All other fares are set by the relevant government authority or taxi regulator. The estimated nominal fares in Australian dollars for international jurisdictions are set out in Table 9.1.

Table 9.1 Taxi fares comparison, nominal fares³⁰

City	Entry Controls?	Fare Controls?	Fares			
			5km	10km	15km	20km
Melbourne	Yes	Yes	\$12.42	\$21.63	\$30.85	\$40.07
Sydney	Yes	Yes	\$15.48	\$27.55	\$39.63	\$51.70
New York	Yes	Yes	\$9.54	\$16.23	\$22.91	\$29.60
Paris	Yes	Yes	\$10.39	\$17.74	\$25.09	\$32.44
Dublin	No	Yes	\$12.61	\$20.04	\$27.47	\$37.22
London	No	Yes	\$16.58	\$29.23	\$47.69	\$66.16
Auckland	No	No	\$14.09	\$25.84	\$37.59	\$49.34
Wellington	No	No	\$14.68	\$26.62	\$38.57	\$50.51
Stockholm	No	No	\$14.85	\$23.31	\$31.78	\$40.24
Singapore	No	No	\$4.78	\$7.29	\$10.11	\$12.92

Source: TII

²⁷ Darryl Biggar (2011), *Why and how should we regulate taxis? – Paper prepared for the Victorian Taxi Industry Inquiry*, Melbourne, p.18

²⁸ Ibid.

²⁹ Green Cabs was used as a proxy for the general fare levels in Auckland and Wellington; ComfortDelGro was used as a proxy for the general fare level in Singapore; and Taxi Stockholm was used as a proxy for the general fare level in Stockholm

³⁰ Fare calculations are based on flagfall, distance, and 2 minutes waiting time for every 5km travelled. Fares adjusted for nominal exchange rate. Exchange rates as at 21 March 2012, RBA Exchange Rates, accessed 21 March 2012 at: www.rba.gov.au/statistics/frequency/exchange-rates.html

The estimated nominal fares in Australian dollars for international jurisdictions *excluding* relevant taxes are set out in Table 9.2:³¹

Table 9.2 Taxi fares comparison, nominal fares excluding taxes

City	Entry Controls?	Fare Controls?	Fares			
			5km	10km	15km	20km
Melbourne	Yes	Yes	\$11.29	\$19.67	\$28.05	\$36.43
Sydney	Yes	Yes	\$14.07	\$25.05	\$36.03	\$47.00
New York	Yes	Yes	\$9.07	\$15.75	\$22.44	\$29.12
Paris	Yes	Yes	\$8.69	\$14.83	\$20.98	\$27.13
Dublin	No	Yes	\$10.26	\$16.29	\$22.33	\$30.26
London	No	Yes	\$13.82	\$24.35	\$39.74	\$55.13
Auckland	No	No	\$12.25	\$22.47	\$32.69	\$42.90
Wellington	No	No	\$12.76	\$23.15	\$33.54	\$43.92
Stockholm	No	No	\$11.88	\$18.65	\$25.42	\$32.19
Singapore	No	No	\$4.47	\$6.82	\$9.45	\$12.08

Source: TII

The estimated nominal fares in Australian dollars adjusted for comparative price levels are set out in Table 9.3:³²

Table 9.3 Taxi fares comparison, nominal fares adjusted for comparative price levels

City	Entry Controls?	Fare Controls?	Fares			
			5km	10km	15km	20km
Melbourne	Yes	Yes	\$11.29	\$19.67	\$28.05	\$36.43
Sydney	Yes	Yes	\$14.07	\$25.05	\$36.03	\$47.00
New York	Yes	Yes	\$15.37	\$26.70	\$38.03	\$49.36
Paris	Yes	Yes	\$12.23	\$20.89	\$29.55	\$38.21
Dublin	No	Yes	\$13.15	\$20.89	\$28.63	\$38.80
London	No	Yes	\$17.72	\$31.22	\$50.95	\$70.68
Auckland	No	No	\$15.32	\$28.09	\$40.86	\$53.63
Wellington	No	No	\$15.95	\$28.94	\$41.92	\$54.90
Stockholm	No	No	\$15.04	\$23.61	\$32.18	\$40.75
Singapore	No	No	N/A	N/A	N/A	N/A

Source: TII

³¹ This comparison excludes any jurisdictional specific taxes. Relevant taxes are: GST in Australia (10%), New Zealand (15%) and Singapore (7%); VAT in France (19.6%), Ireland (23%), United Kingdom (20%) and Sweden (25%); and the New York State tax of \$0.50 per ride

³² Comparative price levels in respective cities based on OECD February 2012 comparative price levels, accessed 10 April 2012 at <http://stats.oecd.org/Index.aspx?DataSetCode=CPL>

From these comparisons, we can observe that:

- Using a nominal exchange rate comparison, Melbourne's fares are similar to those in both restricted and open entry systems, including those systems that have no maximum fares.
- When relative price levels and relevant taxes are taken into account,³³ Melbourne's fares appear at the lower end of fares observed internationally.

This comparison of fares demonstrates that the relationships between different regulatory regimes and price outcomes are complex. This accords with other elements of the inquiry's analysis of different regimes around the world – there are often specific market factors which influence the performance of commercial passenger vehicles. For example, Singapore has an open entry, non-price controlled market but has very low fares and high levels of vehicle utilisation. This appears to reflect some specific Singapore factors which favour the use of taxi services, such as expensive private vehicle ownership and a high quality public transport system which complements taxi use.

There is some limited evidence to suggest that fares tend to be higher in open entry than in closed entry systems. However, this comparison only takes into account one dimension of the price actually paid by consumers. The 'full price' paid by consumers for taxi services in closed entry systems includes lower vehicle availability and longer waiting times. The inquiry's view is that taking these full prices into account, it is questionable whether closed entry markets deliver lower prices for consumers.

While this comparison is suggestive rather than conclusive, it does illustrate that the significantly greater level of vehicle availability under open entry systems is likely to result in higher fares in net terms. However, as has been discussed, this does not mean that consumers are likely to be worse off in these systems. The significantly greater vehicle availability in open entry systems can result in greater use of taxis which can outweigh the costs of higher fares.

Drivers are not necessarily remunerated better in closed entry markets. The OECD notes that closed entry systems do not necessarily protect driver conditions:

Although entry restrictions are often justified on equity grounds, there is no evidence that drivers fare better in restricted markets. ... [T]here is no evidence to suggest that taxi driver incomes are higher in markets with restrictive entry conditions.³⁴

33 This comparison takes into account that taxi fares are not tradeable commodities, and therefore can only be effectively compared by assessing their price relative to other prices in the economy. As an example, taxi fares in New York appear relatively cheap in Australian dollar terms, but the price of other goods and services in the United States is relatively much lower than in Australia. The third adjustment to fares takes account of this

34 OECD (2007a), Op. Cit., p8

The inquiry has not encountered any evidence that convincingly shows closed entry systems result in better remunerated drivers; however, there appears to be extensive sentiment that closed entry systems do not protect driver incomes. Survey studies of US and Canadian taxi driver wages, where the taxi industry predominantly operates under restrictive entry systems, often report low driver incomes (for example, Chicago, New York, Portland, Los Angeles, Austin and Toronto).³⁵ Sydney, which operated under similar restricted entry system to Melbourne until recently,³⁶ has also reported incomes of taxi drivers to be low – the estimated average earnings of Sydney taxi drivers are approximately \$10.50 per hour.³⁷ The inquiry notes the difficulty in obtaining reliable information on the earnings of taxi drivers, with earning estimates usually based on survey data. Driver income is discussed further in chapter 13.

In any case, the approach to quantitative entry controls (whether closed or open entry) also does not appear to be the decisive factor for the quality of the taxi services delivered in the jurisdictions. As mentioned previously, jurisdictions have deregulated licensing controls with varying results in respect of service quality. Apart from improved waiting time, the experiences in these jurisdictions are largely dependent on supportive quality and safety regulatory controls. Indeed, open entry regimes, such as London's, can promote high quality taxi services where the right type of quality regulations are in place.

The converse is also true: quantity restrictions do not on their own deliver better quality services. There are numerous cases of closed entry systems that have problems with the quality of taxi services, such as poor driver knowledge and lack of supply during peak periods. For example, in the same year that London taxis were voted the best in terms of customer satisfaction (placing top in the category of driver knowledge), New York was perceived as being the worst in this area.³⁸

35 Chicago: Bruno (2009), *Driven into poverty: A comprehensive study of the Chicago taxicab industry*, University of Illinois, pp.13-14; New York: see World Socialist Website, accessed on 14 March 2012 at: www.wsws.org/articles/2008/sep2008/taxi-s04.shtml; Portland: City of Portland Revenue Bureau (2012), Preliminary findings, Taxi driver labor market study: Long hours, low wages, p.15; Los Angeles: Blasi & Leavitt (2008), *Driving poor: Taxi drivers and the regulation of the taxi industry in Los Angeles*, University of California, Los Angeles, pp.25-26; Austin: Legal Assistance to Microenterprises Project (2010), *Driving Austin, driving injustice: A report on the working conditions of taxi drivers in Austin, Texas* RioGrande Legal Aid, pp.21-24; Abraham, Sundar, & Whitmore (2008), *Toronto taxi drivers: Ambassadors of the City*, A report on working conditions, Toronto, pp 13-20

36 In 2009, a change in legislation came into effect mandating that Transport for NSW must determine before 31 March each year the number and class of new annual renewable licences to be released in Sydney for the coming financial year

37 Centre for International Economics (2011), *Reweighting of the taxi cost index*, Prepared for the NSW Independent Pricing and Regulatory Tribunal, p.48

38 Hotel.com annual taxi survey (2011), accessed 21 march 2012 at <http://press.hotels.com/en-ca/2011-08-23/taxi-hotels-com-reveals-best-cities-to-hail-a-cab/>

While there have been reports that some aspects of service quality can deteriorate following liberalisation, it is important to keep in mind three things: (1) in cases where liberalisation resulted in a deterioration of service quality, supporting quality regulations were generally lacking; (2) an 'oversupply' of taxis does not equate to a 'deterioration of quality' – consumers benefit by having to wait less for a taxi as supply has increased; and (3) the inquiry is aware of no studies that show taxi service quality in closed entry regimes is better than in open entry regimes, all else being equal.

9.4.6. Lack of information

Few international jurisdictions have access to the depth and detail of information that is required to fully assess industry performance.

During the inquiry's examination of international jurisdictions, it proved very difficult to obtain a great deal of meaningful data on the *performance* of the different taxi and hire car industries. The type of information usually available only covered static metrics, such as the number of taxis licensed – and even this information was sometimes only available as an estimate or not available at all.

The inquiry's view is that aspects of the taxi industry that are easily measured, such as the number of licensed taxis, are often not good indicators of the performance of taxi industry when compared with data that is harder to measure, such as total numbers of trips, industry revenue and waiting times for consumers. The inquiry found that the information it considers important is not collected systematically by regulators in each jurisdiction: accordingly analysis of international experiences is often based on anecdote and rhetoric.

New York is one of few international jurisdictions examined by the inquiry that has a readily reliable and fairly comprehensive source of information on the taxi industry. The city's Taxicab Passenger Enhancements Project (TPEP) system, introduced in 2008 and fully implemented in 2009, is mandatory in all New York taxis. The program enables recording of approximately 30 different data elements (including driver ID, medallion number, GPS location, pick-up and drop-off time, fares, tipping and number of passengers). The New York Taxi and Limousine Commission (TLC) is able to access these elements directly from each cab for analysis. The TLC can access the information in real-time via a web application, with complete data files provided to the TLC on a weekly basis. While the TPEP system's primary purpose is to enable passengers to pay with credit cards and improve the information available to passengers in taxis, its broader uses include enabling more effective enforcement and compliance, monitoring traffic flows and dealing with lost property.

The most notable use of the TPEP system is that, after reviewing data gathered from the system the TLC uncovered thousands of cases of taxi drivers overcharging passengers through a meter scam to the sum of approximately \$8.3 million.³⁹ In response, the TLC instigated a system where back-seat television screens will alert a passenger when the meter is switched to a higher rate. While the system has enabled the TLC to strengthen its enforcement and compliance, valuable information on such things as industry turnover, distribution of trips and congestion is readily available. The amount, quality and reliability of information collected from New York taxis appear unprecedented in the global taxi industry.

In Western Australia, the regulator obtains regular performance data from the major metropolitan taxi networks. Information gathered from the taxi networks includes waiting time, jobs not covered, complaints and information relating to passenger and driver safety, such as number of in-cab emergency alarm activations. This information is used to inform the regulator's policy decisions, specifically their licensing approach as no more licences are released until set performance standards are met. The performance of the industry is also published in a quarterly report on the regulator's website and is available to the public.

The above examples underscore the value of meaningful industry data in informing policy decisions by government, as well as enabling more effective monitoring and compliance. The inquiry believes that reliable and informative data is critical to effectively implementing and evaluating regulatory reforms – something that has generally been lacking in other jurisdictions.

9.4.7. Competition and efficiency

Better taxi and hire car systems make more effective use of competition and promote efficiency.

The way in which a taxi system is set up can have a profound effect on the level of competition that emerges. Experiences from international jurisdictions have shown that some systems perform better in terms of facilitating competition and efficiency in the taxi markets.

39 For example, see 'Millions stolen from passengers in NYC taxi scam', accessed on 15 March 2012 at: www.rmtracking.com/blog/2011/01/18/millions-stolen-from-passengers-in-nyc-taxi-scam/

New Zealand is an example of a taxi system that facilitates competition. Taxi networks are allowed to compete for spaces at taxi ranks at high demand places such as airports and hotels. This creates an effective market for competition between taxi booking networks: taxi networks want to build up their businesses and will compete for taxi rank spaces on private company land – this translates to higher quality services at ranks as taxi networks that deliver high quality are more likely to be awarded the rank space.⁴⁰

The inquiry also considers that the different regulatory structures applied between taxis and hire cars can impact on the level of competition and efficiency in a particular jurisdiction.

In London, private hire cars (or ‘minicabs’) appear to fill in the gaps where taxis are unable to meet demand and increasingly are able to compete directly with the taxis (or ‘black cabs’). While minicab drivers can only perform pre-booked work, they do not have to pass the more difficult test ‘The Knowledge’ that taxi drivers must pass. So whilst minicab drivers must hold a London Transport and Private Hire Licence showing that they are fit for purpose and undergo a topographical test to obtain their licence, they can become licensed in about 12 weeks. Thus, liberal entry conditions have led to the predominance of these vehicles, particularly in suburban areas. Minicab fares are also generally cheaper than taxi fares. Addison Lee in London is a leading example of minicabs providing consumers with a competitive alternative to taxis and distinguishes itself through its advertising, modern technology and vehicles. Addison Lee has been allowed to flourish in London, becoming the largest minicab hire car operator in the city with over 2,400 vehicles (see Addison Lee case study in chapter 14).

In New York City, taxi availability had been a major problem in the outer boroughs beyond Manhattan and the New York airports. With general taxi services almost non-existent in these boroughs, a sector of hire cars illegally servicing the rank and hail market flourished. As a result, in December 2011, city officials announced plans to allow livery cabs (hire cars) to legally pick up street hails in the outer boroughs and in upper Manhattan.⁴¹ An important point to note here is that, as the number of hire car licences is not restricted, hire cars were used to fill the service gap caused by a restrictive taxi licensing regime.

The London and New York examples demonstrate that the regulatory environment that dictates the interaction between taxis and hire cars plays an important role in the competitiveness and efficiency of taxi and hire cars services. If the regulatory environment is set correctly, it can benefit consumers by providing more services and lower fares.

9.4.8. Emerging potential of technology

Technology has the potential to increase competition and efficiency.

Developments in technology can potentially increase competition and efficiency in taxi markets – making the case against liberalising entry and fares less compelling than it ever has been.

As noted above, jurisdictions that liberalised entry often experienced increased entry and an increase in fares, with the magnitude of these effects considered somewhat less than efficient. For example, liberalisation in Ireland resulted in significant entry, while the Netherlands and Sweden experienced significant fare increases.

However, these experiences occurred during a time when limited means existed to promote efficient markets – specifically, the technologies and information systems available were considerably less advanced than today. The OECD noted that one possible reason for licence and fare deregulation resulting in a fare increase may be inefficient information and lack of transparency on fares.⁴²

Significant advances in technology in recent years mean that the experiences of liberalisation must be examined in a new light. Modern technology now enables the transfer and capture of information in real-time, better enabling information to be distributed between industry participants and market consumers. Furthermore, this technology is now becoming mobile (such as through smartphone applications), potentially reducing the prevalence of spatial and temporal monopolies that once existed in the taxi market.

In this sense, technology can allow the rank and hail market to exploit the same information available in the pre-booked market, such as information on fares and availability prior to accessing a taxi. This gives customers and drivers a greater amount of real-time information about service options and promotes fare and service competition.⁴³ Advances in technologies can also potentially improve vehicle utilisation by giving drivers improved real-time access to demand characteristics, enabling them to make more informed choices about market participation.

40 For example, see Newswire website, accessed on 14 March 2012 at: www.newswire.co.nz/2011/03/taxi-stand-deals-make-life-tough-for-cabbies/

41 New York Times, ‘Deal struck to broaden taxi service in the City’, accessed on 15 March 2012 at www.nytimes.com/2011/12/21/nyregion/deal-is-struck-to-broaden-taxi-service-in-new-york-city.html

42 OECD (2007), Op. Cit., p.236

43 See case study on Addison Lee, chapter 14

Additionally, 'cloud computing' – the ability to share resources, software and information over a network – provides the potential for technology to overtake traditional networks. Dispatching to drivers could potentially be serviced from central 'cloud' networks maintained remotely via computer servers, without the need for taxis to be connected to a physical dispatch network. Such a connection could enhance efficiency by enabling the connection of many taxis to a network without the physical barriers associated with a physical network affiliation.

There is an increasing awareness that efficient allocation of taxi services via transparent and real-time information on taxi supply, demand and price in the rank and hail market can become a reality in deregulated markets. These emergent technologies, not available previously, mean that the potential for effective competition is significantly higher than previously.

Inquiry findings

- ➔ Given the above considerations, the inquiry considers that open entry regimes for taxi markets are desirable. While the immediate aftermath of liberalisation can be disruptive, open entry regimes, *when implemented correctly*, can significantly benefit consumers in terms of better availability of taxis, wider service choice and improved service standards.
- ➔ Removal of entry controls has been achieved successfully in many of the jurisdictions examined by the inquiry. These successes reinforce the importance of dealing with quality and safety issues appropriately in taxi markets and ensuring proper enforcement of regulations relating to safety and quality. In this sense, it is critical to remember that in any reform of the taxi industry, including removing quantitative restrictions on licence numbers, the government and/or regulator must be acutely aware and responsive to ensuring that proper controls are in place that are specifically directed towards delivering improved services and safety to taxi consumers.

Chapter 10.

10. Taxis, hire cars and other point-to-point services: economic analysis

Key messages

- Licensing regulations have a range of effects on how the taxi and hire car industry is organised, as well as on the conduct of licence holders and other industry participants. Consequently, they have a significant impact on competition and market performance.
- Current regulations limit the degree of substitutability between different kinds of point-to-point transport services and prevent new services from being developed.
- For the most part, taxi and hire car services are only weakly substitutable for public transport services. This suggests that restrictions preventing taxis and hire cars from offering fixed route services may be reducing the use of both taxis and public transport.
- Restrictions on licence numbers generate a number of detrimental effects that are costly for consumers, while the benefits of these restrictions accrue to licence holders, not to taxi operators or taxi drivers.
- Licence assignments allow licence holders to transfer all responsibility for service provision to operators. This may be responsible for a decline in service. Industry practices relating to the assignment of taxi licences also appear to be imposing heavy costs on licence owners and assignees.
- Current taxi zoning policies are inflexible and cause costs for taxi operators and consumers where zone boundaries are no longer appropriate given population growth or other developments.

- Regulations that prevent fare competition are potentially costly and offer few discernable benefits. In addition, insufficient industry data is collected to effectively regulate taxi fares.
- Taxi and hire car licence conditions contain a number of provisions that have the effect of restricting competition between taxis and hire cars (and between taxis and hire cars and other forms of transport). Regulation of hire car vehicle standards also restricts competition between hire cars and taxis.
- Livery restrictions including the uniform yellow colour requirement and the prohibition on advertising on taxis add cost to the industry and reduce its competitiveness.
- Removal of some of the barriers to more effective competition between taxi operators and networks will allow the market to take a greater role in producing the kinds of services that consumers want.

Within its broad scope of review, the Taxi Industry Inquiry's terms of reference require it to identify an appropriate industry structure that delivers accountability for service performance.

The inquiry must also identify how regulation of taxi licence numbers and fares affects customer service and innovation, and must consider competition in the sector, with a particular focus on vertical integration, anti-competitive practices and incentives for innovation.

This chapter expands on the inquiry's views on key performance issues and on the underlying problems (including market and regulatory failures) that have contributed to this performance.

First, the markets in which taxi, hire cars and other actual or potential service providers are supplied are identified. This provides important context for understanding how existing regulations affect competition and performance within the identified markets. Some observations are made about how competition appears to work in practice between taxi and hire car operators.

Secondly, the inquiry presents its analysis and findings on the effects of key regulations that apply to taxis, hire cars and other point-to-point services. The key regulations discussed in this section are:

- Restrictions on entry
- The assignment of taxi-cab licences
- Zoning
- Fare controls on taxi services
- Restrictions on competition between taxi, hire car and other forms of private or public transport.

Safety-related regulations (including regulations relating to the age of vehicles) are discussed separately in chapter 17.

10.1. Markets for taxi-cab, hire car and other services

The licensing regulations imposed by the Victorian Government have a range of effects on the industry's structure and on the conduct of industry participants. The regulations have a significant influence on how the industry is organised to produce point-to-point transport services (the market structure), as well as on the kinds of conduct that licensees are allowed to undertake. Consequently, they have a significant impact on competition and market performance.

The inquiry has assessed this impact in the context of the relevant markets in which point-to-point transport services are supplied. A market is defined simply as the area of close substitution between firms. Competition can occur in a number of market dimensions, including differentiation of services (product market) and across different geographic areas (geographic market).

10.1.1. Market segments

Generally, it is helpful to define markets by considering the activities undertaken by the firms whose conduct is being analysed.¹ Both taxi-cabs and hire cars provide a service offering flexibility of pick-up point and destination, as well as privacy and seating for all passengers. Taxi services may be acquired in different ways, with three market segments traditionally being identified:

- The 'hail' segment – where taxi-cab drivers pick up customers from the street after being hailed
- The 'rank' segment – where customers queue at a designated point for pick up (a taxi-cab rank)
- The 'pre-booked' segment – those cabs that are booked by phone and dispatched to drivers via a booking service. In recent times, the growth of mobile phones and smartphone applications has given this segment an additional boost, with direct-to-driver bookings now possible.

Although taxi-cabs supply services in all three segments, the prospects for competition between service providers vary between the different segments. For example, in the pre-booked segment, the potential exists for a much greater degree of price competition. Hire cars are constrained to operating only in this market segment and, in the absence of further regulation, strong competition could be expected between taxis and hire cars for pre-booked work.

Other forms of commercial passenger vehicle transport provide services that are likely to be substitutes to varying degrees for taxi services. These include other private and public commercial passenger vehicles: hire cars, buses, trams and trains.

It is difficult to further analyse substitutability without considering the effect of the current regulations. The best example is provided by examining whether hire cars and taxis offer substitutable services. It is clear that, in principle, hire cars are likely to be a very close substitute to taxi-cabs as both offer a door-to-door service. But regulation limits the degree with which the two services can compete. Hire cars may only operate in the pre-booked market segment and have different quality requirements (such as those imposed in relation to vehicle quality), which have resulted in hire cars becoming a higher quality, more expensive service option. Other kinds of hire car service – such as wedding cars – are more specific-purpose in nature and therefore unlikely to be highly substitutable with taxis or hire cars.

¹ See comments of French J in *Re Singapore Airlines Limited v Taprobane Tours WA Pty Ltd* [1991] FCA 621; (1992) 14 Atptr 41-159 (1991) 104 ALR 633 (1991) 106 ALR 115 (1991) 33 FCR 158 (12 December 1991). "In any given application it [a market] describes a range of economic activities defined by reference to particular economic functions (e.g. manufacturing, wholesale or retail sales), the class or classes of products, be they goods or services, which are the subject of those activities and the geographic area within which those activities occur"

10.1.2. Substitution with public transport

The inquiry has found that, under existing regulation, there are good reasons to think that there is likely to be only very limited substitutability between taxi and hire car services and public transport services. Public transport runs along fixed routes at scheduled intervals and does not offer a door-to-door service. It is generally much cheaper than taking a taxi or hire car.

In some instances, the relationship between taxis and hire cars and public transport might be better characterised by complementarity rather than substitution.

Complementarity implies that people would use more of one form of transport if another transport option was available: for example, more taxis or other point-to-point vehicles may be used to complete journeys if there was more public transport available to cover the major journey.² If this is correct, then it is more plausible that substitution occurs between forms of public or hireable transport and private vehicles.³ This has historically been thought to be the case in Melbourne.⁴ It is also consistent with evidence from overseas jurisdictions such as Singapore, London and New York that the use of taxis and other small commercial passenger vehicles is higher where private vehicle ownership is lower and public transport use is higher.⁵

The inquiry's work on demand encompassed a commissioned study by The Hensher Group of how different groups of consumers would be likely to respond to changes in service attributes for taxis and other forms of public transport (including fares and waiting times). This research revealed the following:

- Taxis are only a weak substitute for public transport – that is, an increase in taxi fares would lead to a very small increase in the use of buses, trains and trams.

- Private vehicles are a much stronger substitute for taxis – for every trip that taxi users no longer make (say) due to higher fares, more than half of these become private vehicle trips while the next strongest substitute is walking.
- The substitution effect between taxis and public transport is weaker for holders of Multi Purpose Taxi Program (MPTP) cards and business users, and stronger for day-to-day activities and tourists. This result is not surprising given that a reasonable proportion of MPTP cardholders will have difficulties accessing public transport and that business users are likely to value the door-to-door service offered by taxis.

As discussed later in this chapter, an issue identified by the inquiry is that regulations appear to not only restrict competition between point-to-point transport and public transport services, but also prevent the development of point-to-point services that could actually enhance services for both point-to-point and public transport operators.

A further issue is where other forms of point-to-point transport, such as minibuses, may fit. These blur the boundary between bus transport (running along fixed routes) and taxis or hire cars. In these cases, substitution seems more feasible. But, as discussed later in this chapter, regulations constrain taxis and hire cars from substituting for larger vehicles.

10.1.3. Geographic markets

A final consideration is the geographic nature of point-to-point transport markets. Again, regulation has played a part in limiting the scope of markets through the use of zoning regulations that restrict journeys undertaken wholly within one zone to a vehicle licensed for that zone. The Australian Competition and Consumer Commission (ACCC) has found in a number of competition matters that markets tend to be local or regional in nature. Nonetheless, it is important to consider that in Victoria there are some zone boundaries that appear to reflect historic boundaries rather than current markets (particularly the Melbourne outer suburban zone). In these situations, it appears that if regulations on zoning were removed, consumers would readily be able to substitute to services that are currently supplied in the adjacent zone and vehicles would also provide services from the adjacent zone. This suggests that the markets that might emerge from a less restrictive zoning system could look quite different to current markets.

² The technical economic condition for complementarity is that a lower price for taxi travel would lead to an increase in demand for public transport

³ Fingleton, John, Evans, John and Hogan, Oliver (1997), *The Dublin Taxi Market: Re-regulate or Stay Queuing?*, Department of Economics, Trinity College, Dublin, accessed 7 February 2012 at www.taxi-library.org/dublin.htm#N_71

⁴ For example, Wilson et al (1983) comment that "... from the perspective of trains, trams and buses, taxi users form a small but nevertheless significant sub-market which is most likely to be complementary to those forms of public transport...". Wilson, D.I., Heathcote, E., Howe E., Furnell, P. and Alford, G. (1983), *The forgotten public transport mode: Market research into Melbourne's taxis*, Ministry of Transport, Melbourne, p.231

⁵ For example, Singapore reports taxi trips of over 230 million per annum, with a population of 5.1 million and vehicle ownership of around 150 cars per 1000 persons. In Melbourne, the comparable figures are 26.5 million annual trips against a population (within the metropolitan taxi zone) of just over 3 million and vehicle ownership of 595 per 1,000 persons

Inquiry findings

- ➔ Within the market for point-to-point transport services, there are important market segments for services acquired at ranks, hailed on the street or pre-booked.
- ➔ There is significant overlap in the pre-booked segment between the services offered by taxis and hire cars, but regulations limit the degree of substitutability between different kinds of point-to-point transport services.
- ➔ Public transport is only weakly substitutable for taxi travel, and in some cases may even be complementary. This implies that restrictions preventing taxis and hire cars from offering route services reduces use of taxis but does not significantly increase use of public transport.
- ➔ Geographic markets for services largely mirror zone restrictions, but there are some instances where zones are drawn that may not be reflective of substitution possibilities.

10.1.4. The nature of competition in taxi and hire car markets

Some unusual features of markets for taxi and hire car services, particularly in the rank and hail market segments, can cause problems with the operation of competition. As discussed in chapter 7, market failures can arise in the sense that competition between operators does not produce the kind of outcomes that would benefit the community generally.

How some of these features have developed is unclear. Notions of 'fairness for drivers' and 'market order' are likely to have been behind some of these features. In some cases, regulation has entrenched these market behaviours, making competition less likely rather than more likely. It is important to understand these issues if changes to regulation are to make a contribution to a more competitive and more efficient market which better services consumer's needs.

Some of these key features are:

- There is a convention that customers will take the first taxi off a rank, even though by law consumers have explicit rights to choose any taxi off the rank. This means that taxi operators do not compete for customers in rank and hail situations. This means that there is simply no point in competing by offering lower fares, as this will result in no more sales. Equally, there is no point in improving quality to try and differentiate services if all that does is increase costs (because consumers are unlikely to choose a higher quality vehicle from the rank).
- Rather than competing for customers, taxi operators compete for drivers. Operators must offer drivers a package of services (including a vehicle) that makes it worthwhile for drivers to drive. The intensity of this competition has sometimes been questioned, particularly when there is a large supply of available drivers but, at the present time, the inquiry has heard that competition between operators for drivers is strong.
- Booking networks compete to attract bookings from customers. These bookings are distributed to vehicles using criteria related to waiting time for the driver and/or the location of the driver. Customers have only limited ability to request particular taxi operators, vehicles or drivers.⁶ Again, this limits the ability of operators to compete with one another on the basis of fare or driver and vehicle quality. Any vehicle of any quality (above a regulated minimum standard) can get fares by simply waiting long enough or in the right spot.

These market features have a profound influence on market performance. Rather than operators having incentive to build their customer base by offering better service and lower prices – as could be expected in competitive markets – taxi operators face strong incentives to 'skimp' on service quality. Where reducing quality saves costs, there is little disincentive to do so (again, regulation also has a role to play in preventing services falling below some minimum standard). This affects vehicle standards, but – and perhaps more importantly – it also affects the kinds of drivers to whom operators bail their vehicles. These predicted outcomes have been borne out in the inquiry's research on consumer experiences with taxis, particularly in the metropolitan Melbourne area.

⁶ Customers can request a wheelchair accessible taxi (WAT) (or not a WAT) or vehicles with luggage capacity. Both major metropolitan NSPs have recently introduced 'premium' driver services, where customers can request a particular driver or a premium vehicle for an additional fee

Nonetheless, there are market mechanisms that mitigate some of these incentives to reduce quality. The best example is the emergence in recent times of secondary networks. These networks, based on the use of mobile phones and trunk radios, have increased incentives for the provision of quality services by taxi operators. They allow operators to benefit from delivering higher quality services, as customers are able to call these preferred drivers and operators directly and benefit from repeat business. This provision of high quality service brings these networks more into competition with hire car operators, who have been limited by regulation to operating in the premium-priced, premium quality segment of the pre-booked market. Notably, hire car operators do not face some of the same problems of taxi operators: hire car operators must attract customers and therefore face strong incentives to maintain quality where customers value that quality of service. The inquiry's view is that these market mechanisms which have developed are important but ultimately limited in their effect at this point in time.

There are two ways that the Victorian Government can respond to the market outcomes that have been observed in Victoria's taxi and hire car markets. If the Government considers that the competition problems are impossible to solve, its only option is to regulate in a more and more intrusive way to keep standards up. On the other hand, if the Government can make a serious attempt to remove some of the barriers (including some of the non-regulatory barriers) to more effective competition between taxi operators and networks, the market can play a greater role in producing the kinds of services that consumers want.

In the following sections, the inquiry examines the impact of the key regulations affecting the performance of taxi and hire car markets.

10.2. Restrictions on the number of taxi-cab and hire car licences

10.2.1. The nature of the restrictions

As noted in chapter 8, Victorian taxi licences are subject to legislative controls on the number of licences, either through the operation of a 'public interest' test (section 143 of the *Transport (Compliance and Miscellaneous) Act* 1983) or through Ministerial discretion (section 143A).

There are a number of different kinds of hire car licence. Metropolitan hire car licences are not limited in number, but are issued by the licensing authority for a fee (currently \$60,500 inclusive of GST). Country hire car licences are available for \$20,500 (GST inclusive), but are issued subject to an additional public interest test.⁷

The Victorian Taxi Directorate (VTD) submission notes that there is no restrictive 'cap' on taxi licence numbers and that the licensing authority may issue new licences wherever a public interest case can be demonstrated. It notes that under the Section 143A process, 1,290 new licences have been issued in the metropolitan zone since 1986/87, with each licence release targeted at meeting a particular kind of identified demand.

The process whereby the regulator determines the need for new services is unusual. In other industries, consumers would be the ultimate arbiters on the need for new services. However, consumer views about the issue of new taxi and hire car licences are not given the primacy that might be expected. Rather, the regulator attempts to judge the need for taxi services in a particular zone and how many licences are necessary to satisfy this need, while at the same time ensuring existing operators remain viable. As noted by KPMG in its 1999 review of taxi-cab and hire car legislation, this reverses the onus established under National Competition Policy:

It is suggested that the nature of this test is contrary to principles of National Competition Policy. In general, the onus is on the applicant to demonstrate that the application would be in the public interest. NCP would suggest that the presumption should be on granting applications unless they are demonstrated by an independent regulator to be against the public interest.⁸

⁷ This public interest test means that the VTD, when considering licensing a hire car, must have regard to:

- (i) the interests of the people who either require, or provide, taxi-cab services or hire car services in the specified area where the service is proposed; and
- (ii) whether or not the granting of the application would be likely to adversely affect the viability of the provision of existing taxi-cab or hire car services in the specified area

⁸ KPMG (1999), Op. Cit., p.36

A theme running through submissions to the inquiry, and through previous work on taxi issues by relevant bodies such as the Essential Services Commission (ESC), is the pernicious effect of quantitative limits on taxi licences and the associated licence values (reflecting their scarcity) that such limits create. Hire car controls are less onerous and therefore create fewer problems, but still have undesirable effects.

The Department of Transport (DOT) submits that the quantitative controls on taxi licences were 'central' to the taxi regulatory regime in Victoria and further notes:

These restrictions were introduced in the 1930s during the Great Depression. However, the shape of the industry, and the nature of the challenges it faces, have changed dramatically since the 1930s.⁹

In general, limits on the number of new entrants into an industry are undesirable. However, there are some circumstances in which new entry is not, on balance, beneficial for the community. The conditions under which limited entry is beneficial are very unusual (see case study).

In line with its focus on exploring reform from a service perspective, the inquiry's analysis has concentrated on whether quantitative restrictions on taxi licences have had a detrimental effect on industry performance.

Understanding the costs and benefits of entry restrictions

Free entry of firms benefits the community if the gains from entry of new firms exceed their costs. Gains generally come from the increased competition that new entry generates: lower prices, better quality, increased incentives to produce more efficiently and allowing for the introduction of new and different services. The costs of entry primarily come from the duplication of fixed costs: this can mean higher average costs for the industry as a whole.

The possibility that there might be 'too much' entry from the community's point of view is that, while the competition due to new entrants may have some desirable effects, these entrants also 'steal business' from existing firms, which could result in a fall in industry productivity. The net gain from entry depends on whether the competition benefits outweigh the productivity losses. Where competition cannot generate these net gains for some reason, this is termed a market failure.

Applying this analysis to taxi services, there are both costs and benefits to new entry:

- The costs are the duplication of fixed costs (vehicles, insurance, network service provider fees and so on), which mean that occupancy rates of vehicles are lower than they could be even when all demand was served.
- The benefits of entry result from new demand generated by lower waiting times, competition driving fares lower or increasing incentives to be efficient and to offer innovative services.

Restrictions on entry can only be justified if the evidence suggests that the gains outweigh the costs. In particular, a finding that the benefits of restricting entry outweigh the costs would require an assessment that:

- More entry would not increase the number of expected trips or passenger kilometres (which would, in turn, require that entry would not lower waiting times or that consumers were not sensitive to lower waiting times)
- There would be little fare competition resulting from entry
- The efficiency of fleet operation would fall
- There would be few new and innovative services introduced by entrants.

As well as these conditions being met at any point in time, these conditions would also need to hold over time.

9 DOT, Op. Cit, p.1

10.2.2. Detriments from restrictions on licences

Quantitative restrictions on entry have obvious effects on market structure: they directly limit how many firms can enter the market. These restrictions allow holders of licences to earn profits from the supply of taxi or hire car services. These profits may be earned either by operating the taxi or hire car or, as discussed below, by assigning the taxi licence to an operator.

The restrictions are costly for consumers because:

1. Prices are higher than necessary to provide the service (as the assignment costs, which are real costs for taxi operators, are built into regulated fares)
2. Restrictions exacerbate problems of meeting demand at peak times
3. Restrictions limit service innovation
4. Restrictions impose a significant regulatory burden and create the risk of the licensing authority choosing the wrong price and quality combination.

Further detriments result from related regulations that are, to some extent, a function of the restricted licensing regime. This includes zoning regulations and restrictions on the operation of hire cars.

The nature and significance of these detriments are discussed in the following four sections.

1. Effects of licence prices on fares

In metropolitan Melbourne, the most obvious symptom of the current supply restrictions is the price (nearly \$500,000) at which taxi licences trade and the value attached to licence assignments (around \$30,000 per year). Assignment values reflect annual profits that can be earned in operating a taxi, while licence values reflect the discounted sum of annual profits that may be earned in operating a taxi.¹⁰

The fact that assignments represent industry profits is not universally accepted within the industry. The inquiry understands this is because assignments do not necessarily track industry profitability smoothly. The ESC has described this as assignments showing a degree of 'price stickiness' – noting, for example, that there was limited downward pressure on assignment fees in late 2007 even though LPG prices were rising.¹¹

Further, assignment prices have risen over the past few years even though there have been no fare increases and there have been cost increases relating to network service provider (NSP) fees and insurance. Some submitters put this down to "competition within the brokerage sector of the industry", with "prices being artificially manipulated...to the benefit of licence owners, taxi brokers and other key industry players with a vested interest in ensuring that prices are retained at the current high levels".¹² The VTD also comments that it is difficult to understand why the demand for licence assignments is so high given the cost pressures on operators.¹³

The inquiry accepts that there is some evidence of inefficiency in the assignment of licences. This is discussed further below. Nonetheless, the inquiry's view is that in the medium to longer term, it is not possible for assignment values to be totally divorced from the profitability of operating a taxi licence. The fact that more and more licences are being assigned also strongly suggests that operators are able to make the profits necessary to justify paying the assignment fee.

The reason that assignment fees create higher prices for consumers is that these fees are recovered from fares: although they are technically a rent and not a cost, they form part of the cost base estimated by the ESC to calculate efficient taxi fares. The ESC notes that:

Assignment fees represent a significant proportion of taxi revenue. For an average 7.7 km journey the average base fare in Victoria is approximately \$17.35, of which assignment fees account for \$3.05, or 17 per cent.¹⁴

Treating these economic rents as costs means that, other things being equal, fares are higher than they would be in a market where licences had no intrinsic value.¹⁵

It is important to recognise that this source of inefficiency is a direct result of licence restrictions. In a market without licence restrictions (and non prohibitive licence fees), there would be no assignment fees as each operator would also be a licence holder, and operators would be free to earn economic profits that correlate with their level of input into the industry. Hence, restricting licences creates a transfer of economic profit away from operators, and licence holders receive this in the form of an economic rent.¹⁶

10 A number of submissions noted that the Victorian Government is now the largest owner of taxi-cab licences in Victoria. In particular, the Government leases licences – notably, 600 'green top' peak service taxis and 530 licences released in 2011 under the Greater Melbourne Taxi Licence Release

11 ESC Staff Paper, Submission to the Taxi Industry Inquiry, SS151, p.31

12 Ambassador Taxis, Taxi link and Cabways, Joint submission to the Taxi Industry Inquiry, SS233, p.29

13 VTD, Op. Cit., p.26

14 ESC Staff Paper, Op.Cit., p.27

15 It is possible that other things may not be equal. In particular, lowering fares with no increase in supply will increase waiting times and may therefore decrease demand. The gains to consumers from reducing fares on their own may not be as high as the assignment profits currently earned

16 ESC Staff Paper, Op. Cit., p.32

The inclusion of assignment fees in the fare model has been a source of contention in the past and continues to be challenged today. The Foletta review argued that licence market values should not be included in the fare model and noted that the Victorian Taxi Association (VTA) had agreed with this view. The McQuillen review (which examined the KPMG review) sought to challenge the view that licence values and assignment fees resulted in higher fares because “only operating costs have ever been considered by the Victorian authorities in the determination of taxi fares.”¹⁷ In any event, given that large numbers of operators have been incurring assignment costs since the time of the Foletta review, the inquiry’s view is that this is strong evidence that fares in the past were based on inflated cost estimates. The cost surveys undertaken by the ESC in 2005 indicated that, while operator returns were considered to be ‘low’,¹⁸ the cost base for making this comparison included either \$19,213 (2000) or \$20,580 (2004) in assignment costs. If this cost was included instead as part of the return to the operator, these returns would be very high.¹⁹

The approach taken by the ESC in 2005 and 2008 reflects that assignment costs are either a real cost to an operator (who does not own a licence) or an opportunity cost to the licence owner (the value that could be realised by assigning it to someone else). The ESC also noted that this causes a circularity between fares and assignment values: higher fares lead to higher assignments and then higher fares. To avoid circularity in the fare model, the ESC adopted a methodology in 2008 that decoupled assignment fees in the fare model from actual assignment fees paid by operators. Consequently, the value used in the fare model to calculate the appropriate change in fares was somewhat below the real figure: just over \$20,000 as opposed to the then current rates of just below \$30,000 per annum.

2. Meeting demand at peak times

Many submissions to the inquiry describe issues with demand at certain times. The main concerns reported to the inquiry are availability late at night on weekends in Melbourne and general availability in outer metropolitan and regional areas.

- In Melbourne, taxis are the only available transport service operating on Saturdays and Sundays in the early hours of the morning in the CBD other than Nightrider bus services. At these times, there are still significant numbers of people in the city. Issues relating to the poor availability of taxi services during these times include very long wait times at ranks, frustrated customers walking onto the road to hail taxis and conflict between customers while trying to obtain a taxi.
- Local councils and businesses report insufficient taxi services in outer metropolitan areas. Some of these areas have only one or two local operators, severely limiting the availability of taxis for short trips by residents. Users in these areas report long wait times for taxi services during peak periods and that taxis sometimes never arrive or are often late after first taking other bookings closer to the city. Councils also report that operational limitations associated with the interface between the outer suburban and metropolitan taxi zones contribute to the difficulties residents experience in accessing key services that are in the metropolitan zone, with residents often refused travel in both directions.
- In regional Victoria, taxi users, councils, businesses and community groups report problems with service availability, including taxi numbers failing to keep pace with population growth in large regional cities, long wait times in some areas, a shortage of WATs, limited choice and flexibility in services (especially in smaller towns and remote communities) and poor integration with public and community transport. Some regional tourism destinations suffer from insufficient taxi services during periods of high visitor numbers.

These submissions are supported by the evidence obtained from surveys conducted by the inquiry: 20 per cent of all problems reported with taxi services by respondents to the Latitude Insights Survey of Consumer Detriment occur on Saturday nights between 7pm and 4am when accessibility is at its lowest.²⁰

¹⁷ McQuillen, Rob PSM (2001), Op. Cit., p. 21

¹⁸ There also appears to be some confusion in the ESC report about the appropriate benchmark for measuring the significance of this return. The ESC calculates a return on sales (revenue) of 3.8% and 3.6% for the 2000 and 2004 years respectively. However, returns on sales are of themselves meaningless because whether they are reasonable or not depends on the amount of capital that has been invested and on which a return is required. If only capital-related items are included as costs (~\$35,000 per vehicle per annum), then a return of over \$4,000 is in excess of a 10% return on capital employed

¹⁹ Either on a return on sales basis or a return on capital employed basis, as discussed in the footnote above

²⁰ Latitude Insights (2012), Op. Cit.

On the other hand, some submissions argue that the issue cannot be reduced to one of availability at certain times, but that an overall balance needs to be struck between supply and demand. For example, the City of Melbourne told the inquiry that its surveys show excess passenger demand for taxi services after midnight on Friday and Saturday nights (as noted above) and excess supply of taxis on Sunday to Thursday evenings and night times.²¹

Some responses to the inquiry state that there are too many taxis on the road in Victoria and that taxis are underutilised for most of the time they are operating. A number of drivers feel that they already spend too much time waiting on ranks and that increasing the number of taxis will reduce their incomes. The VTA contends:

*To simply expect a taxi to be waiting and ready to go whenever and wherever someone wants it, is simply unachievable. During times of high demand, like any service industry, it will be harder to meet immediate demand.*²²

The inquiry recognises that it is possible that even with no entry restrictions, a peak demand ‘problem’ might still exist. Nonetheless, the limit on new taxis entering prevents better solutions to managing peak demand emerging. For example, pricing higher at peak times could create better incentives for entry of vehicles to service these times and provide a better means of rationing demand. However, with entry restrictions in place, these kinds of policies will not be as beneficial as higher prices merely become a reward for artificially constraining supply (and again, the benefits of this will largely flow through to licence owners).

Another strand of the argument is that the detriment could be lessened through greater use of public transport. The VTA argues that transport demand during peak periods in Melbourne would be better met by a more extensive and integrated mass transport system, not more taxis.

The inquiry is sceptical of this argument. The inquiry’s demand research suggests that public transport is only weakly substitutable for taxi travel. This implies that greater availability of public transport at night will not significantly reduce the burden on taxis and may also encourage more taxi use in situations where fixed-route public transport terminates and passengers seek a door-to-door service.

Can meeting peak demand be improved?

An important question for the inquiry is whether the ‘peak demand’ issue is one that is significantly worsened by entry restrictions. Notwithstanding the comments made in submissions and surveys, the inquiry has had considerable difficulty in obtaining relevant and verifiable data about the ability of the industry to meet demand at peak times (and non-peak times):

- Major booking services do not accept further booking requests when the number of taxis available will cause long waiting times for consumers (meaning that measured waiting times for pre-booked work do not accurately represent the true state of unmet demand).
- Surveys of waiting times at major ranks are not undertaken, either during seasonal peak times or off-peak times.

The DOT commissions regular surveys on customer satisfaction with wait times for booking services and for finding taxis on the street. Responses are marked on a scale of 1 to 10, with the most recent available survey (October - December 2011) indicating that:

- Satisfaction with wait times is significantly higher on Mondays to Thursdays, rating just over 7 out of 10, than with wait times on Fridays and weekends, which rates about 5.8 out of 10.²³
- Similar findings apply to satisfaction with the availability of taxis on the street on Mondays to Thursdays compared to Friday and weekends (7 to 5.5).²⁴
- Overall satisfaction with finding taxis on the street has fallen from 6.6 to 6.1 between 2006/07 and 2010/11.²⁵

Although it is difficult to analyse the question of whether peak performance is acceptable, the inquiry notes evidence from markets where supply restrictions do not exist that the number of vehicles in service is considerably higher. This means that the ability of these taxi services to meet peak demand will be much greater. This is even more so in those markets where there are also no restrictions on hire cars.

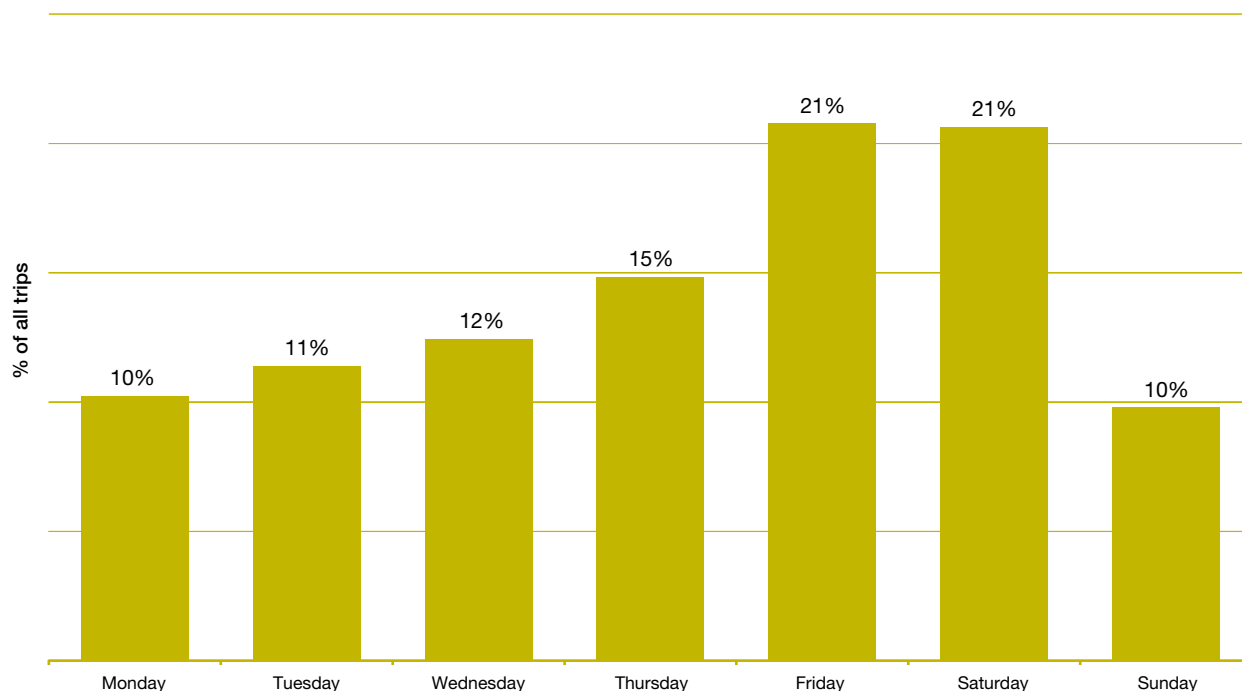
²¹ City of Melbourne, Submission to the Taxi Industry Inquiry, SS166, p.6
²² VTA, Op. Cit., p.7

²³ Wallis Consulting Group P/L (2011), Op. Cit., 3.2I, 3.2J

²⁴ Ibid., 4.2E, 4.2F

²⁵ Ibid., 4.2A

Figure 10.1 Trips by day, Melbourne, 2011



Source: TII analysis of metropolitan NSP data

Unfortunately, there are few jurisdictions with reliable data on the profile of demand in markets which have removed entry controls. Some limited evidence comes from Ireland. Demand in Ireland is said to be concentrated on Friday and Saturday with more than 60 per cent of trips taking place at these times.²⁶ In Melbourne, as shown in Figure 10.1, only 42 per cent of trips take place on Friday and Saturday (a day is measured as 6am to 5am). This suggests that Melbourne's supply of taxis does restrict the number of trips that are taken at these times. It should also be noted that it has been estimated that taxis in Dublin perform 40 million trips per year, with a population half the size of Melbourne's (~1.8 million).²⁷

3. Service innovation

Restrictions on licences discourage many people from entering the taxi-cab industry, since assignee operators and drivers earn very little after paying assignment fees. The scarcity of licences means that the value created by the industry tends to accrue to the licence holders and deprives operators and drivers of earning the full benefit of efficient, customer-focused operations.

A second effect is that it prevents existing taxi operators from expanding their operations. This may have flow-on effects on competition in other markets; for example, a large operator might be interested in taking bookings and formally becoming an NSP, but this will require a large number of vehicles and hence licences or assignments. The increased capital barriers created by licence restrictions limit the potential for new entry of this kind.

A third effect is that the restrictions limit innovation in the delivery of point-to-point transport services; in particular, to fill niche markets that are somewhat like taxi-cab services but also may fill other roles. The DOT submission expresses this as follows:

Similarly, restrictions on the number of taxi licences on issue limits the size of the taxi industry, potentially inhibiting expansion into new areas of service. This essentially prevents any move to introduce new and innovative service models.²⁸

The inquiry received submissions from a number of parties suggesting that the kinds of services prevented by the licence restrictions include providing point-to-point services at particular times or in particular locations at particular times (such as peak periods).

²⁶ Indecon International Economic Consultants (2011), *The Taxi Regulation Review – Report of the Review Group*, Ireland, p.19

²⁷ Goodbody (2009) also finds that: "The demand for cab services is a peaked demand. Demand peaks on Fridays and Saturdays, which together account for 73 per cent of all trips. This reflects the demand for cabs for social and recreational purposes. The evidence is that this peakedness in demand is increasing." Op. Cit.

²⁸ DOT, Op. Cit., p.19

4. The regulatory burden of deciding when to issue more licences

As noted earlier, new taxi licences may be issued pursuant to the provisions of section 143 or section 143A of the *Transport (Compliance and Miscellaneous) Act 1983*. A final cost of entry restrictions is the direct and indirect costs of managing licence supply using these legislative provisions to fit the demand for taxi-cab services:

- The direct costs of managing supply are those regulatory resources that must be devoted to assessing whether the release of new licences is justified under section 143 or 143A criteria.
- The indirect costs are the costs of getting the supply and demand balance wrong – resulting in too few taxis for consumers and too little certainty for taxi operators about their likely conditions of operation.

There is also likely to be a trade-off between the direct and indirect costs, which means these costs are always likely to be significant. As direct costs increase and the licensing authority devotes more time to assessing demand and supply and its evolution over time, the indirect costs are reduced. As direct costs decrease, the indirect costs associated with supply-demand balance would be expected to increase.

Metropolitan licence releases

Section 143A is of more recent origin and applies where the Minister has proclaimed a taxi zone and designated the sale of new licences at a fixed price or tender price. Implicitly, the Minister considers the public interest issues involved when making a determination concerning the release of licences. The VTD has suggested that “the section 143A process is used for licence issue where there is, or could be, competitive interest in licence issue, for example metropolitan Melbourne or a multi-operator taxi area in regional Victoria”.²⁹ Under section 143A, 160 conventional taxi licences were issued in 1986/87; 100 licences for high occupancy wheelchair accessible taxis were issued in 1999; 600 peak service licences were issued between 2003 and 2009; and 530 licences (330 of which were for WATs) were issued under the Greater Melbourne Taxi Licence Release (GMTLR) in 2010.

Several submissions are critical of the Government's past approaches to issuing licences, with one submission describing releases in metropolitan Melbourne as “haphazard”.³⁰ One taxi operator suggested the following:

It is the respondent's view that the taxi industry is currently struggling from an 'oversupply of vehicles' relative to demand. However, without appropriate monitoring and performance measurement in place, it is difficult to know exactly where the industry is placed, apart from experiencing some of its worst financial performances in the past decade.³¹

The inquiry is concerned that, with respect to the Melbourne metropolitan zone, there is no clear objective with respect to the existing limits on taxi-cab licences, nor with the release of new licences.

Each licensing measure taken in recent times appears to have been taken largely in isolation from any broader strategy aimed at responding to changes in the market. For example, in relation to the release of the 200 new conventional taxi licences, the DOT noted on its website that “the Government's objective in releasing more licences is to stabilise licence values so that small investors can continue to be part of the taxi industry in Melbourne”. Further explanation indicates that the licence release should “provide an opportunity for small investors, mums and dads, to purchase a taxi licence and address the scarcity issue that has seen licence prices escalate in recent years”.³² This appears to imply that the objective of the licence releases was not only about improving service (reduced waiting times in peak periods), but also to influence the industry's structure and provide an investment product for ‘small investors’.

This seems at odds with the direction announced by the Victorian Government in 2002 as part of its response to National Competition Policy reforms. The National Competition Council, the authority charged with implementing National Competition Policy, wrote to state governments in 2002 and stated that a ‘gradual’ transition to open competition would meet its requirements so long as:

There should be regular (at least annual) releases of new licences ... there must be a strong commitment that the program of staged licence releases will proceed.³³

²⁹ VTD, Op. Cit., p.8

³⁰ Ambassador Taxis, Taxilink and Cabways, Op. Cit., p.5

³¹ Ibid.

³² Comments from www.transport.vic.gov.au/taxis/projects-and-programs/initiatives-to-improve-victorias-taxi-services, accessed 16 January 2012

³³ Cited in ESC (2005), *Taxi Fare Review 2004/05 – Final Report*, Melbourne, p.14

A further example is the decision to release 330 new WAT licences. This decision followed a recommendation from the ESC that 15 per cent of the fleet should be wheelchair accessible and that meeting this goal would require an additional 330 WATs. However, the ESC also stated that performance monitoring should be undertaken and “if performance monitoring reveals that there are significant differences in the level of service being provided to WAT users and other taxi customers, further WAT licences should be released until this difference is removed.”³⁴ The inquiry understands that this performance monitoring is not linked to further licence releases in any quantifiable way in metropolitan areas, although it may be used by the VTD in determining whether issuing further licences might be in the public interest in country areas.

A particularly concerning feature of recent licence releases is that, other than WAT performance data, there is no reliable information collected about waiting times for consumers or of the financial state of the industry (other than assignment prices). This makes it very difficult to predict the effect of new licence releases on either consumers or operators. Other states in Australia have models in place that at least provide some predictable ‘triggers’ for the release of new licences, using relevant industry data.

Internationally, a field of inquiry based on estimating “significant unmet demand” has also developed. This has primarily come from the UK, where local authorities have the power to restrict entry in certain circumstances. Commonly, studies of significant unmet demand are undertaken which estimate that unmet demand as a function of:

- Passenger delay during normal times during the week
- Passenger delay during peak demand periods
- Latent demand, estimated by asking consumers whether they have been dissuaded from attempting to procure a taxi due to concerns about availability.

On the one hand, the collection of information about these variables is a significant improvement on what is done in Victoria. It would lead to more informed conclusions about the true state of demand in a market. Judgements on this basis would be more transparent. Nonetheless, it may also be subject to the criticism that it assumes a regulator can better determine market demand than investors who are willing to risk their capital that a profit is there to be made. There is no strong basis for the use of any particular index or group of indexes; how should one weight the interests of users at peak times against those of the industry at off-peak times?

When does waiting time become “too high”? A market-based approach would offer a much less information intensive approach and one that leaves commercial judgements in the hands of those in the industry.

What's happening in other places?

New South Wales

In late 2009, the NSW Government introduced major changes to taxi licensing in Sydney. The new supply-based model for taxi licence release in Sydney requires the Director-General of Transport NSW to determine the number of annual taxi licences, excluding wheelchair accessible taxis, to be released each year. The model takes account of various demand factors, including growth in State final demand, population, the unemployment rate, airport passenger numbers, real value of licences, network bookings and other performance measures. WAT licences are available at all times for \$1,000 per annum.

Western Australia

In 2004, the Western Australia Government began to lease new licences instead of releasing them to the market. This aimed to address availability issues and to stimulate additional competition in the industry. The Government determines a number of licences to be leased each year based on a demand formula which primarily takes into account waiting times and ‘no shows’. This demand based formula is intended to provide incentives to taxi operators/drivers to improve services via increased availability and reliability, as the risk of non-performance by operators/drivers is a release of more licences and thus more competition.

Tasmania

From 2006 to 2007, the Tasmanian Government undertook a review of taxi industry legislation. The result was a significant change to taxi licensing arrangements. The intention of the changes was to shift the industry focus to service provision and away from investment in licences as assets. As such, new licences issued are non-assignable owner-operator licences. These new licences are made available via a tender process and the sale price must be greater than a predetermined reserve price. A maximum of five per cent of the number of current licences on issue can be released in a single year, and at least one licence must be released in the year.

³⁴ ESC (2008b), *Final Report – Taxi Fare Review 2007/2008*, Melbourne, p.34

Country licence releases and the public interest test

Section 143 allows the licensing authority to issue new licences subject to a public interest test, which requires the authority to 'have regard primarily to the interests of the public generally including those of persons providing facilities for the transport of passengers' when considering licence applications. There is also a list of specific matters the authority has to consider in the process. In addition, the authority can take any other matter it thinks relevant into account. The objectives of the new *Transport Integration Act 2010* must also be taken into account by the licensing authority. However it is by no means clear that this has improved the operation of the section 143 public interest test (see case study).

Since 2002, only 60 new taxi licences have been issued for non-metropolitan zones under section 143, increasing the total to 756 licences (growth of 8.6 per cent).³⁵ This growth has not kept pace with population growth in regional Victoria, which was over nine per cent between 2002 and 2010.³⁶ Given other developments – such as an ageing regional population, stronger enforcement of drink driving laws and many other changes affecting the demand for taxi services – this growth appears to be very modest.

The inquiry reviewed all applications for licences received by the licensing authority since 1 July 2006 to assess how the public interest test is applied in practice. Over this time, seven applications were received relating to urban areas, all of which were approved: four in Geelong, two in Bendigo and one in Ballarat. Of the 55 applications relating to country zones, 42 were approved and 13 were refused.

When considering applications, it is standard practice for the regulator to evaluate the arguments advanced by the applicant for the licence, to seek the views of other suppliers (as well as the VTA) and the views of the local council and community organisations, and to give the applicant a chance to respond to these views. The regulator typically examines records of vehicle utilisation and MPTP use in the zone, as well as population-to-licence ratios and demographic changes over time.

Virtually all applications for new taxi licences come from existing licence holders or operators and/or their depots. The majority of applications have been for wheelchair accessible vehicles run by the depots (although these licences are required to be in the name of an individual). Given the often relatively low utilisation of these vehicles for wheelchair work, this suggests that operators and depots are attracted by the subsidies and performance bonus payments available for wheelchair accessible vehicles and work.

The regulator does not have an explicit policy document to guide its application of the public interest test to new licence applications. Instead, it applies the legislative criteria on a case by case basis and appears to give no particular emphasis to any of the criteria listed in the Act. It is often unclear what the key factors are in the recommendation made by the regulator's case officer in relation to an application.

The process is driven by an 'orderly marketing' philosophy under which the regulator attempts to judge the need for taxi services in the zone and how many licences are necessary to satisfy this need, while at the same time ensuring existing operators remain viable. Not surprisingly, existing operators frequently object to the grant of new licences to any party who could be seen as a potential competitor and licences have been refused even though community organisations expressed a strong view that more taxis were needed. Objections from existing operators are clearly made on the basis that a new licence would have an adverse commercial impact on them.

A concern about the process is that it stifles entry from new operators and impedes innovation. It substitutes a potential licensee's entrepreneurial judgement as to the possibilities of establishing a viable new business for the judgement of the regulator and the potential licensee's competitors. As noted earlier, the views of consumers – who ultimately would determine the need for new services in other industries – are not given primacy in the process.

³⁵ VTD, Op. Cit., p.8 and VTD website accessed 15 February 2012 at: www.transport.vic.gov.au/taxis/about/the-taxi-industry/industry-statistics

³⁶ ABS statistics on population in Victoria and Melbourne Statistical Local Areas, 2010 data, Cat. Nos. 3218.0 and 3101.0

The 'orderly marketing' philosophy of the Act is largely an historical anachronism, having been a part of taxi industry regulation since at least the 1930s. It reflects the idea that taxis are common carriers forced to provide uneconomic services alongside more profitable services and that, for this to work, it is necessary to restrict competition and keep order in the market. It also reflects a past era when transport and communications were more difficult and people more naturally focussed on local markets. For example, one of the criteria the regulator is required to consider when assessing licence applications is 'the conditions of the roads to be included in any proposed route or area'. In practice, this criterion adds nothing to the decisions made by the regulator.

An interesting aspect of the licence application process is that the regulator will seek the views of the VTA on all applications that involve more than procedural matters. It is neither necessary nor desirable for this to occur. Normally, where the VTA does comment it simply reiterates the views of the existing operator and/or depot. However, the VTA could be considered to have an interest in maintaining an orderly industry, rather than promoting competition and innovation. The VTA's role in this process could be seen as reflection of 'regulatory capture' that has evolved over many years.

The process of reviewing licence applications is administratively cumbersome and time consuming. It also lacks full transparency. In the taxonomy set out above, these are direct costs. By the time all parties are contacted, evidence assembled and a report written, it is often up to six months before an application is determined. In some cases, it has taken twice this time. A more transparent process would involve public notification of the application – for example, on the regulator's website and in a local paper – and all submissions and the final report made publicly available.

The licence assessment process typically involves the regulator having to 'second guess' the state of demand in a market. Also typically, the regulator lacks the necessary information to do this. Its data is partial at best and is historical rather than forward looking. It is based on the demand existing operators are able to meet – it does not cover unsatisfied or latent demands. Obtaining the views of a few individuals or organisations as to perceived need is also no substitute for allowing the market itself to demonstrate need. These are part of the indirect costs of the public interest test.

Inquiry finding

→ The application of the public interest test does little to enhance service performance for users in country markets where alternative public transport options are also often severely constrained. It appears that user demands are frequently not met because new applicants for licences are discouraged from applying for licences or are unduly restricted in doing so. The public interest test works in conjunction with zoning restrictions to restrict competition and maintain the viability of existing operators, whether or not they are providing efficient services to customers.

10.2.3. Are there offsetting benefits from licence restrictions?

Identifying benefits from licence restriction requires the identification of the problem that quantitative restrictions on licences are trying to address. As discussed in chapter 7, the ‘market failure’ that might justify entry restrictions is not obvious.

In fact, few submissions received by the inquiry argue the case for a quantitative limit on licences. Some submissions argue that there is currently an ‘over supply’ of taxi licences and that new licences should not be released in current industry circumstances. For example, the VTA suggests that new licences should follow from increased demand and is highly critical of the recent licence release in 2010/11:

There is no better example of flawed political policy making than the release of the 530 licences in 2010 ... At no time did the Government demonstrate an increase in demand for taxi services. The ESC report conducted in 2008 did not discuss the need for more conventional taxi licences.³⁷

Gange Corporation Australia Ltd, who indirectly owns a number of licences in metropolitan Melbourne, does not argue for restrictions per se, but does argue that regulatory changes that have the effect of eroding licence values without appropriate compensation raise important ‘sovereign risk’ issues with implications that extend beyond the taxi sector. Gange argues that adopting such an approach in relation to the taxi industry may deter or raise the costs of private sector investment in Victoria more broadly.³⁸

Those submissions that do comment on the benefits of quantitative limits suggest that attempts at such reform in other jurisdictions have had an adverse impact on driver competence, service quality, pricing and safety.³⁹

The inquiry is aware of a number of arguments made in favour of licence restrictions. The most common argument, as suggested above, is that licence restrictions allow for better control of service quality and safety. However, as argued by the ESC in 2008, any connection between service quality and licence numbers is tenuous:

The argument that supply restrictions are required to ensure quality of service does not appear to be supportable where service quality and safety regulations are in place. Entry controls are an indirect and inherently inefficient way to regulate quality and safety. This function is better served by dedicated quality regulations which specifically target areas of concern and clearly detail desired outcomes. Licence scarcity is not an essential condition to achieve these.⁴⁰

This is also borne out by the inquiry’s findings in relation to service quality across various jurisdictions. Victoria has long had a restrictive licensing system and has had continuing problems with ensuring the quality and safety of services delivered. Other taxi markets that do not have scarce licences are able to effectively control the quality of services, albeit sometimes after an adjustment period in which an influx of entrants has placed stress on service quality enforcement.⁴¹

A number of other arguments are also sometimes made in favour of entry restrictions. Some of these are analysed in chapter 7. The following sections comment further on three of these arguments:

1. There will be ‘too much entry’ if restrictions are eliminated.
2. Taxis are forced to provide uneconomic services and these practices will cease without the benefits from entry restrictions.
3. Restricting the number of vehicles makes the industry produce taxi services more efficiently.

37 VTA, Op. Cit., p.8

38 Gange Corporation, Op. Cit., p.3

39 See for example: Gange Corporation, Op. Cit.

40 ESC (2008), Op. Cit., p.234

41 See chapter 9

1. Is too much entry likely, and does Victoria already have too many taxis?

The first argument in favour of quantitative restrictions is that there will simply be ‘too much entry’. The inquiry received numerous submissions and comments from licence owners, taxi operators and drivers that there is no need for more taxi licences in Melbourne or elsewhere in Victoria. It would be easy to dismiss this as ‘industry pleading’, but there is evidence to suggest this is more than a theoretical possibility in taxi markets.

One reason why too much entry might occur comes from price regulation. For example, prior to the removal of entry controls, fares may be regulated taking into account the rental (or assignment) value of a taxi licence. This may occur explicitly or implicitly. Then if entry controls are removed, but there is no consequent downward adjustment in fares either through competition or fare regulation, there will be too many new entrants into the industry and they will all operate inefficiently. As noted by Dr Darryl Biggar in a paper prepared for the inquiry:

...in those markets in which price competition is absent (such as the market for rank-and-hail taxi services), and where entry is uncontrolled, if regulated fares are set above an efficient level then it is likely that there will be ‘too much’ entry. In this sense, setting regulated tariffs too high might result in a form of ‘over supply’. However, this is not a market failure in its own right – rather it is a symptom of the failure to adequately or effectively correct another market failure (in the price mechanism).⁴²

There is some evidence that this is consistent with the experiences of Ireland and the Netherlands during the 2000s.⁴³ In these markets, entry controls were removed but fares did not fall to compensate for the lower cost structure of operators. In Ireland, where existing fare controls were maintained, supply increased greatly as did demand. In the Netherlands, where the maximum fare was increased, supply increased as did the level of fares and the overall effect on demand was mixed.⁴⁴ In both cases, new entrants were presumably attracted by the high fares and overall vehicle productivity suffered by more than would have been the case if fares were also lowered. However, the inquiry notes that it is not obvious that consumers were worse off as a result: this ultimately depends on the effect of the additional supply on consumer demand. If many more trips were undertaken at the higher price, then the gains from the (inefficient) entry may well have outweighed the costs.

To better understand the effect of entry restrictions and whether more supply is likely to stimulate demand, the inquiry has undertaken some specific surveying to gauge the importance of service availability to consumers. This is discussed further in chapter 19.

The inquiry also examined evidence on the number of taxis and hire cars in Melbourne and Victoria compared with other jurisdictions. This gives some insight into whether different licensing regimes have a significant impact on the quantities of taxi and hire car services consumed.

Simple comparisons can be made across jurisdictions about the number of taxis and hire cars. However, this does not tell the complete story. The number of vehicles required to service the demand for taxis and hire cars depends on many different factors. Some measures that are sometimes put forward as being relevant are described in Table 10.1.

Table 10.1 Factors affecting the ability of taxis and hire cars to service demand

Factor	Supports fewer or more taxis?
The greater the population of the area served	More
The higher the population density of the area served	More
The better the quality of public transport options	More (taxis are complements) Fewer (taxis are substitutes)
The higher the numbers of tourists (airport journeys)	More
The more intensively vehicles are used (such as double and triple shifting)	Fewer
The higher the levels of private vehicle ownership	Fewer
The higher the average income	More

A careful distinction also needs to be made between what drives demand for taxi services and what is relevant for determining how many taxis might be required to fulfil actual demand. A higher population within an area would seem to support more taxi services, as this should be closely linked to demand. On the other hand, vehicle utilisation has nothing to do with demand but more intensive use of vehicles (such as double or triple shifting of a vehicle) would reduce the need for more vehicles to meet demand.

⁴² Biggar, Darryl (2011), *Why and how should we regulate taxis?* – Paper Prepared for the Victorian Taxi Industry Inquiry, Melbourne, p.16

⁴³ See for example Baanders, A. and Canoy, M. (2010), Op. Cit., p.3

⁴⁴ The number of trips was reported to have fallen while the number of passenger kilometers rose, implying higher average trip lengths

The inquiry conducted research into how taxi and hire car supply in Melbourne and Victoria compares to other areas. This research revealed that making comparisons across jurisdictions is very difficult. There is a concern about the accuracy of data; for example, it is often not easy to match a population statistic with the taxi licensing area or zone (where relevant). Sometimes data does not appear to exist for the area of interest (for example, private vehicle ownership seems to be measured more often by state or country than city).

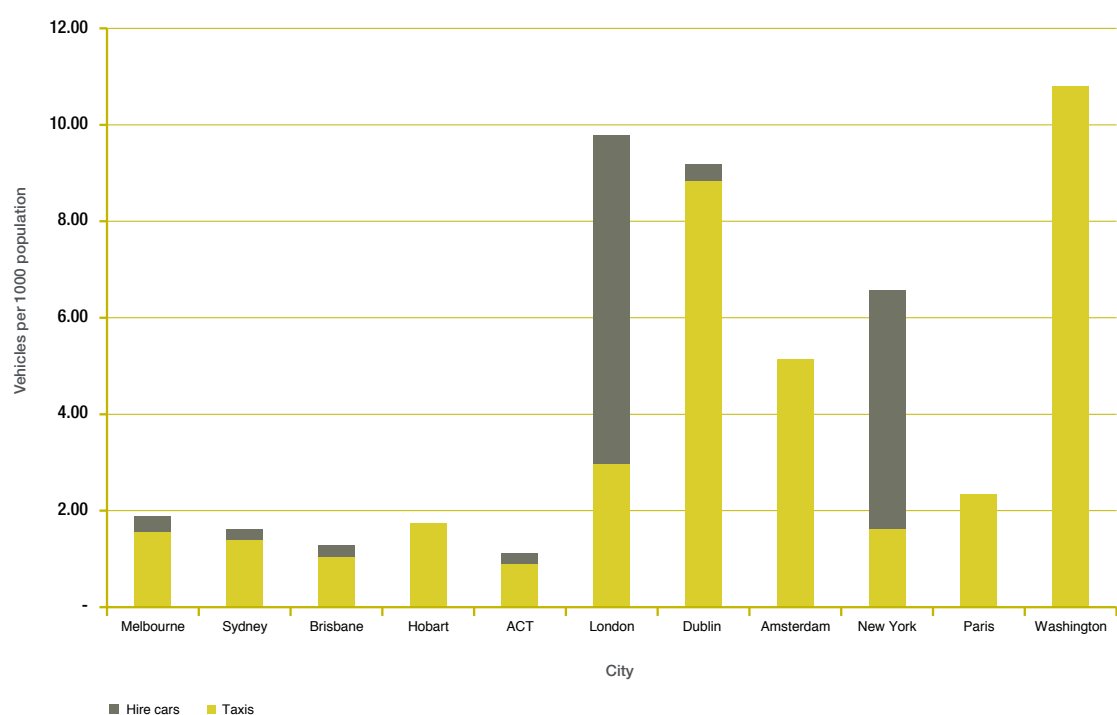
Noting these limitations, the inquiry makes the following comments:

- It is difficult to make comparisons solely on the basis of the number of taxis, because in many jurisdictions hire cars play an important role in point-to-point transport.
- The number of taxis and hire cars in Melbourne and Victoria seems very low per head of population in comparison to markets internationally. The numbers are closer to benchmarks elsewhere in Australia, as shown in Figure 10.2.

- In many of the closed-entry comparisons, there are factors that suggest Victorians would use less taxi services than in these other jurisdictions; for example, New York has many more taxis and hire cars per person but higher population density, fewer private vehicles, an extensive public transit system and more tourists.
- There are also questions of causality. Are there more taxis and hire cars per person in London because it is more expensive to operate a private vehicle – or are there fewer private vehicles because there are more taxis and hire cars available?

In summary, the inquiry is generally cautious of relying on international comparisons, given the paucity of relevant data held. Nonetheless, examination of international jurisdictions does reveal much wider scope for more use of taxis and hire cars.

Figure 10.2 Comparisons of taxis and hire cars per 1,000 population



Source: TII

2. Supplying uneconomic services

The second argument in favour of entry restrictions is that taxis are 'common carriers' forced to provide uneconomic services alongside more profitable services and that it is necessary to restrict competition and keep order in the market for these services to continue. For example, there are rules that unprofitable short fares cannot generally be refused and that taxis should provide services continuously across the week. This issue is raised most often in relation to country areas, where taxis are seen as having more of a 'public transport' role.

There are two problems with using entry regulation to compensate taxi operators for providing uneconomic services:

- First, commercial firms operating in such a market will always face strong incentives to only do things that are commercial, as this will maximise their profits. Therefore, a high degree of monitoring by the regulator will be required to enforce the regulations. This is apparent in the Melbourne metropolitan zone in the significant reported issues around short fare refusals.
- Secondly, it is very difficult to determine by 'how much' competition should be restricted to achieve the objective. The industry will face strong incentives to overstate the costs of providing uneconomic services, as this will achieve a greater degree of restriction and a higher level of profitability.

A final point is that it would be more transparent and efficient for government to fund any uneconomic services directly.

It is not obvious to the inquiry that the benefits of requiring operators to provide uneconomic services could exceed the costs of restriction identified earlier.

3. Improving industry viability

The third argument supporting restrictions on licences is that they improve the viability of the taxi industry by minimising 'dead running' (the costs of running the taxi unoccupied) because occupancy is kept higher than it might otherwise be. Undoubtedly, entry restrictions do keep occupancy rates higher. This provides an efficiency benefit in that fewer vehicles are required to produce a given quantity of taxi trips. However, the inquiry notes two problems with using licence restrictions to keep occupancy high:

- *The value to taxi operators of generally higher occupancy rates becomes factored into the rental price of the licence⁴⁵* – This effect may be understood by considering what would happen if the number of taxis was reduced: occupancy rates are likely to rise⁴⁶ and so will the profitability of all taxi operators. However, this effect will be temporary. Operators will compete for new assignments by bidding away the new profits that are created. The value of the 'occupancy benefit' is therefore appropriated by licence holders. The implication of this is very important: the financial pressures faced by operators and taxi drivers, and the incentive to cut costs and overcharge passengers, will be the same as when there are no licensing restrictions. If the operator has to lease a licence, the required occupancy rates for a taxi operator to break even are much higher than they would be if licences were not restricted (and had no value). In other words, there is no sustainable benefit that can accrue to either taxi operators (or indeed to taxi drivers) from licensing restrictions unless further restrictions are imposed. Service delivery can therefore be expected to be no better under a restricted entry regime than an unrestricted regime.
- *Restricting the number of vehicles makes waiting times longer for consumers than they would otherwise be at certain times or locations* – This has the effect of reducing consumer demand for taxi services and reducing the number of trips undertaken. As identified earlier in this chapter, using entry controls to increase efficiency can only be justified if the introduction of new vehicles will have no effect on waiting times (and therefore on demand) or that lower waiting times do not affect demand. If not, there is a risk that the licensing authority will set supply at a level that does not deliver the kind of service that consumers prefer. Consumers may prefer a service with lower waiting times, even if higher prices result from lower occupancy rates. Many submissions to the inquiry suggest that service availability is lacking at certain times, not just in Melbourne but across Victoria. Without entry restrictions, waiting times would almost assuredly be lower and demand higher at peak times.

45 Only better-than-average occupancy performance cannot be captured by licence holders

46 So long as the increase in waiting time does not decrease demand so much that trips per vehicle falls

10.2.4. Valuing the effect of licensing restrictions on the community

Licence values measure the expected profit that can be earned from using or leasing the licence. The existence of high licence values suggests that there are some potential welfare gains for the community if these profits could be removed and lower prices charged. The reason is that, in general, consumers gain more from lower prices than the producers making the profits lose. This is because the high prices underpinning the profits cause consumers to consume less than they would at a lower price, and these units of output lost are valued at more than they would cost to produce.

Economists and review authorities have often attempted to measure the size of the welfare loss and/or potential welfare gain caused by restrictive licensing. This involves estimating the shape of demand and supply curves for taxi services, and comparing the actual price and quantity combination under restrictive entry with an alternative combination estimating a different price and quantity combination. For example, in the 1999 KPMG report, the size of the loss was estimated by calculating a 'competitive price' for taxi services and measuring the gains and losses to consumers and producers at this new price (which removed the licence value from the average price).⁴⁷ At this lower price, there is no new entry by taxis because all the expected profits from entering have been removed.

A weakness with these estimates is that they assume that prices can merely be reduced to a competitive price (by regulation) with no effect on demand. But evidence from actual taxi markets suggests that the reality is not this simple. Supply and demand are likely to be interdependent: more supply increases vacancy rates, which lessens waiting times and creates more demand. The strength of these effects can be very important. Lowering prices, which would increase demand, also reduces the supply available to other potential consumers and can lengthen waiting times. This causes the demand curve for taxi services to shift inwards, meaning that less will be consumed at the prevailing price.

The result of this complexity is that standard approaches to measure welfare effects are likely to be wrong. They can overstate or understate welfare losses because they do not account for the effect of waiting times on consumer demand. How wrong they are will depend upon how important waiting times and reliability are for consumers. For example, if consumers value waiting time very highly:

- The potential welfare gains from simply lowering fares while assuming the number of taxis remains unchanged will be overstated and possibly even illusory. The loss consumers would experience from reduced availability (driven by the lower price) could outweigh the gains from the lower price.
- If more taxis enter even at the lower price and stimulate demand significantly, then estimates of welfare gains based on no new entry may well understate the gains from removing entry restrictions.

Whether the waiting time effect is important or not will depend upon the facts in each particular market; for example, if entry policies have been very restrictive, this effect is more likely to be important.

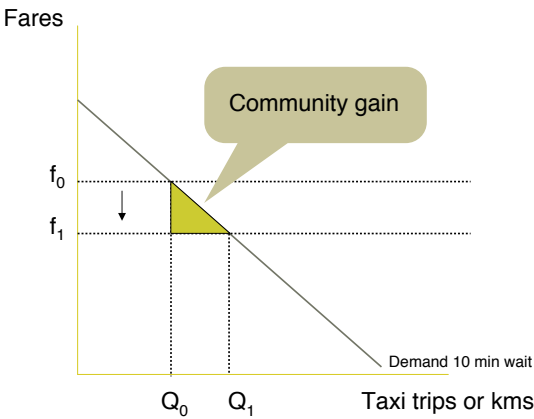
This analysis also raises the possibility that an alternative way to improve community welfare could be to leave prices unchanged – or even to raise them – but remove restrictive licensing policies. This outcome would undoubtedly result in many new taxis and dramatically increased availability. If waiting times are particularly important (for example, where entry restrictions have stifled demand for many years), this may be desirable. However, if this policy is adopted where waiting time is not highly valued by consumers, the result could be significant new entry but no significant increase in demand. This would lead to an increase in industry cost (falling taxi productivity), but for little consumer benefit. This appears consistent with the 'excess entry' experience of some overseas jurisdictions.

These considerations are illustrated graphically in Figure 10.3. The first diagram shows the benefits to consumers from reducing fares by removing assignment fees from fares and assuming that waiting time can be held constant (fares fall from f_0 to f_1). The gains to the community are represented by the shaded triangle (this does not consider the transfer between licence owners and consumers as a welfare gain). The second diagram illustrates a situation where fares remain at their present level, but sufficient new entry is allowed to reduce the profits from operating a taxi to zero (costs increase from c_0 to f_0). This reduces waiting times and increases the demand for taxi trips. In this example drawn with a linear (straight line) demand curve, the gains to the community from the increased number of trips and the value of those trips will significantly outweigh those from lowering fares without allowing new entry. This occurs even though costs have increased and 'A' appears as a welfare loss.

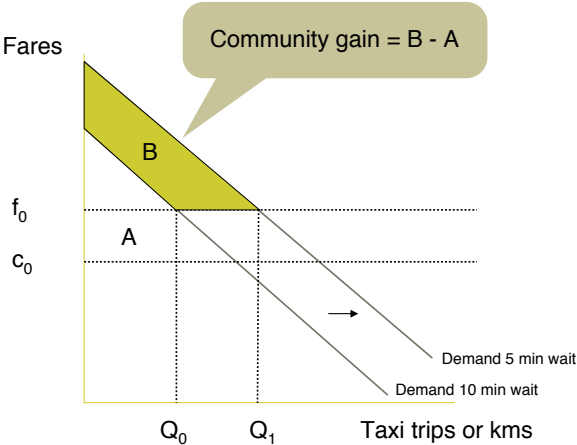
⁴⁷ A similar exercise was undertaken in the ESC's 2008 fare review and in Gaunt, C. and Black, T. (1996), 'The economic cost of taxicab regulation: the case of Brisbane' in *Economic Analysis & Policy*, vol. 26, no. 1, March 1996, pp.45–58

Figure 10.3 Comparison of community gains from fare reductions and from greater availability

Fare reduction



Greater availability



Source: TII

The inquiry also notes that the above analysis means that simple comparisons about fares across jurisdictions with different entry policies can often be misleading. In particular, even if fares are lower in a closed entry system, this does not imply consumers are better off. The availability effect means that consumers can actually be better off even if they pay higher fares; even a small increase in availability may have significant positive effects because the value created by shifts in demand (caused by better availability) outweigh the losses from higher fares.

The New Zealand experience appears to be a good example of this effect. As highlighted in chapter 9, fares are somewhat higher in New Zealand than in Australian cities, yet there are many more taxis operating sustainably in New Zealand. Consumers may well be better off due to greater taxi availability than in the Australian closed entry systems. Ultimately, this depends on whether more trips are consumed and how much consumers value these trips.

A better approach to measuring possible welfare gains from removing or reducing entry restrictions is to take the demand and supply interaction into account. This introduces an additional source of complexity into estimations of the likely effects of removing entry restrictions and/or lowering fares. Given these constraints, it is helpful to classify the kind of results that might be expected from removing entry restrictions under a number of scenarios.

1. Waiting time effect is not significant, lower prices with number of taxis unchanging
2. Waiting time effect is not significant, prices unchanging with more taxis entering
3. Waiting time effect is significant, lower prices with number of taxis unchanging
4. Waiting time effect is significant, prices unchanging with more taxis entering

The likely outcomes of different policies around entry and fares, in comparison with the current situation, are shown in Table 10.2.

Table 10.2 Likely welfare outcomes compared to existing situation

Outcome compared to existing situation		Waiting time effect	
		Significant	Not significant
Policy change	Lower price, number of taxis fixed	Worse Consumers value availability more than lower fares	Better Consumers value lower fares more than better availability
	Price fixed, number of taxis increases	Better More availability stimulates substantial new demand	Worse 'Excess' entry and too many taxis service passengers

It would also be possible to implement policies that combine both price falls and increases in entry: these may produce superior results than the polar cases identified in the above table.

The work on demand prepared for the inquiry by The Hensher Group, summarised in chapter 20, indicates that both fares and waiting time are important to consumers. The inquiry's view is that the evidence suggests that it is unlikely to be beneficial to simply lower fares without also relaxing entry controls to some degree, as this will exacerbate the effect of supply constraints.⁴⁸

10.2.5. Summing up on the net costs of entry restriction

The conclusions reached by the inquiry's analysis of the effects of restricting entry are consistent with those reached in many other reviews of taxi and hire car regulation. The detriments from entry restrictions have been widely recognised in previous reviews of the Victorian industry, including the Foletta review, the 1999 KPMG report and the ESC 2008 fare review. Federal bodies, including the National Competition Council, the Productivity Commission and the Australian Competition and Consumer Commission have also identified significant costs from licence restriction.

These conclusions are not controversial in overseas jurisdictions, notwithstanding the entry restrictions that apply in these jurisdictions. The Organisation for Economic Co-operation and Development (OECD) major 2007 review of taxi regulation summarised that:

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.*⁴⁹

The inquiry concurs with these views.

The inquiry is aware that many in Victoria's taxi industry view these arguments as 'theoretical' and consider that – in the 'real world' – the removal of entry restrictions has reduced service quality while not resulting in lower fares or improved industry productivity.

The inquiry has considered Australian and international experiences with different forms of taxi and hire car regulation. Members of the inquiry team have visited and consulted with regulators and policy makers in several jurisdictions, including Ireland, the Netherlands, New Zealand and Singapore (all of whom have liberalised entry). Detailed reviews have been undertaken of the regulatory framework in US cities (where there is a trend towards open entry), Canadian cities and other Australian States and Territories.

The inquiry's views on these other models of regulation are set out in chapter 9. The balance of evidence shows that entry restrictions are not necessary to produce a transport service that is in the long-term interests of consumers – acknowledging that this requires that the industry be viable in the longer term as well. This is not to deny that problems have been experienced with freeing of entry controls: there is much evidence that simply removing entry restrictions on their own can cause significant industry disruption with little benefit to consumers. However, within the context of a broader reform package, maintaining a public interest test and other forms of entry restriction become unnecessary.

⁴⁸ The inquiry has also undertaken some modeling of welfare effects taking into account both price and waiting time elasticities (that is, the effect of increasing supply on demand). This modeling supports the finding that relaxing entry controls is likely to be more effective than lowering fares. This modeling will be further referenced in the inquiry's Final Report

⁴⁹ OECD (2007), Op. Cit., p.8

Inquiry findings

- ➔ The existence of substantial economic rents (exemplified in taxi licence values and in the licence assignment price and terms and conditions) suggests that fares are too high and that the community makes far less use of taxis than it would if fares were based on the true economic costs incurred in providing the services.
- ➔ The benefits of entry restrictions accrue to licence holders, not to taxi operators or to taxi drivers.
- ➔ Supply restrictions also create issues for the industry in meeting demand at peak times of the week.
- ➔ The Victorian Government does not currently collect the information that is required to effectively regulate taxis under the current regulatory structure. This means there are serious doubts that the restrictions on taxi licence quantities produce the right number of taxi-cabs to serve consumer interests.

10.2.6. Regulations applying to entry of hire cars

In metropolitan Melbourne, hire car licences are not subject to the same kinds of controls as those applying to taxis. In 2002, the Victorian Government removed the public interest test on new hire car licences, allowing open entry for new providers into the industry. The Minister for Transport at the time suggested that “these applicants will now be able to purchase new hire car licenses as of right, allowing a greater number of licences and increased competition within the hire car market”.⁵⁰

However, the Government did not offer new licences at no charge. Rather, it decided to release new licences at a price of \$66,000 (GST inclusive). The reform package in 2002 included a commitment to review this fee within two years. This review was undertaken by the ESC, which recommended a lower fee of \$44,000 (GST inclusive). The Government subsequently decided to set a fee of \$60,500 (GST inclusive).

Outside metropolitan Melbourne, the public interest test for hire car licences has been reinstated. Licences are issued at a cost of \$20,500 (GST inclusive) per vehicle. Vehicles operating on Country Hire Car licences are issued with special identifying VHC registration plates. The VTD will consider applications for Country Hire Car licences provided that the issue of the licence is deemed to be in the public interest, including having regard for taxi-cab or hire car services in the district in accordance with section 142 of the *Transport (Compliance and Miscellaneous) Act 1983*.

The inquiry notes that the benefits and detriments from the metropolitan hire car licensing scheme will be somewhat different to those applying to taxis.

A major issue with the licensing scheme for hire cars is that there is strong theoretical and practical support for competition working much more effectively in the pre-booked market segment. The pre-booked market has very different characteristics from the ‘cruising’ markets, with consumers having greater ability to choose between competing companies and hire car companies having a much greater reliance on repeat business. Competition can keep service standards higher in the pre-booked segment than in situations where the probability of repeat business is low (for example, the likelihood of catching the same taxi).

On the detriment side, the licensing scheme effectively turns a quantity-based restriction into a price-based restriction on entry. The major benefit of this is that it does not require the licensing authority to determine whether there is a ‘need’ for more vehicles. Operators are free to make commercial judgements about whether there is sufficient service demand to support another vehicle; they will do so where the expected commercial benefits are sufficient to offset the \$60,500 licence fee. Consequently, this policy has resulted in the entry of a significant number of new hire cars since 2002.

However, some detriment from the restriction clearly remains. It may imply that fares are higher than they would otherwise need to be (although this depends on how closely hire cars compete with taxis) and that there are limits in dealing with demand at peak times. The inquiry has heard anecdotal evidence that this has led some operators to illegally substitute private or other licensed vehicles (such as SV category licensed vehicles) when demand for their services is particularly high.

Further, and in combination with other kinds of regulations about vehicles, the licence fee limits the development of new and innovative business models. In particular, the inquiry notes the widespread development of hire car services in large cities such as London and New York, which have arisen in an environment where hire car licences are issued as of right.

⁵⁰ www.dtf.vic.gov.au/domino/Web_Notes/MediaRelArc02.nsf/fce5683f42af57f04a256b36001bd4df/f9d205ebae17dd35ca256bb5008adc0!OpenDocument, accessed 27 January 2012

Inquiry findings

- The detriments from restrictive hire car entry policies are likely to be significantly lower than those from taxis in metropolitan areas, because there is much less restriction on issuing licences.
- The benefits and detriments associated with regulations on release of country hire car licences are likely to be broadly similar to those applying to taxis in country areas.

10.3. Assignments and transfers of licences

An important feature of perpetual taxi licences is that they can be:

- Leased or 'assigned' to other parties (assignable)
- Sold to other parties (transferable)

Taxi licences can only be assigned for a period of up to three years. Hire car licences are not assignable but may be transferred.

Generally, taxi licences are assigned to operators who either engage drivers to drive the vehicle or who drive the vehicle themselves. Therefore, licence assignments have a significant influence on the market structure for the delivery of taxi services. Assignments allow a separation between licence holders and taxi operators: that is, the licence holder may have no direct interest in the delivery of the service but may merely be an investor.

Transferability allows licence owners to sell their licences. This increases their value because they do not have to be operated or assigned to generate a profit.

Assignments were introduced in 1981, although they were not widely available until after the recommendations of the Foletta report were implemented in the late 1980s. In part, the increasing value of the licence can be attributed to its transferability through both sale and assignment.⁵¹

Since 2002, the Victorian Government has only issued licences that are non-assignable and, in some instances, non-transferable.

10.3.1. Comments on assignments and transfers in submissions

Assignments and licence transfers are a major theme raised in submissions. Assignments and trading in licences are seen by a number of respondents to the inquiry as having a detrimental impact on service quality and driver remuneration and conditions:

...the cost of licence assignment fees is a significant and increasing impost upon the taxi industry. As well as squeezing the 'operational level' of the taxi industry of much-needed funds, higher assignment fees are encouraging more owner/operators to simply assign...their licences.⁵²

Recently, licence assignment fees have been driven up because owners are seeing an opportunity to increase the return on their 'investment', with no improvement in customer service, through new entrants into the industry who are enticed with unrealistic promises of earnings.⁵³

Some people believe that the trade in licences should be stopped altogether, viewing it as a trade not in a private property right but in a 'government granted right' or a 'monopoly right'. Generally, these people want licences to be issued annually, subject to conditions aimed at improving service quality and promoting a dominant position in the industry for owner-drivers.

Concerns about the role, behaviour and regulation of brokers in licence trading have also been raised with the inquiry. There is a widely held view that assignment arrangements are not transparent and that assignment prices were not being reported accurately to the Bendigo Stock Exchange (under now defunct arrangements).

Both the principle and practice of licence assignment are the subject of reports to the inquiry, with particular concerns expressed about inappropriate behaviour by licence holders, hidden payments and secret commissions. The VTD has told the inquiry that the victims of allegedly unscrupulous assignment practices are often unwilling to make written statements for fear of reprisals, making it difficult to ascertain the extent of these practices.

51 KPMG (1999), Op. Cit., p.57

52 Ambassador Taxis, TaxiLink and Cabways, Op. Cit., p.30

53 Holger Hansen, Submission to the Taxi Industry Inquiry, SS36, p.2

While some respondents call for the assignment of licences to be prohibited outright, others see merit in capping future assignment fees. In its submission, the ESC argues that an assignment fee cap “would limit the economic profits being transferred to licence holders” and “be a means to positively affect the distribution of income between industry participants”.⁵⁴ The VTA notes that “placing a cap on assignment fees will control excessive and beyond the usual demands by licence holders”,⁵⁵ while a joint submission from Ambassador Taxis, TaxiLink and Cabways argues that capping assignment fees “will automatically bring a correction to the prices being paid for assignable licences”.⁵⁶

Some licence holders point out that they have made business and investment decisions based on an expectation that licences will remain tradeable and assignable, and will continue to have a ‘reasonable scarcity value’ through government regulation of the number of licences issued.

10.3.2. The effect of assignments and transfers on market performance

In discussing licence assignment and transfer, it is helpful to understand some of the history to the introduction and development of these policies.

Licence transfers have been allowed since some time in the early 1970s. The widespread use of assignments began after the Foletta inquiry, in the late 1980s. Prior to this time, assignments were only allowed under relatively strict criteria. By 1989, 239 licence assignments had been approved. By 2001 this had reached 1,287 for the metropolitan fleet.⁵⁷ In 2011, this number reached 2,155 or nearly 70 per cent of assignable licences.⁵⁸

These effects seem to be reflected in licence value data. Table 10.3 summarises licence price changes in metropolitan Melbourne from 1975 to 2011 in both nominal and real (inflation adjusted) terms. Growth in real licence values appeared to accelerate after the Foletta review was completed and assignments became more widespread.

Table 10.3 Licence value changes, 1975 to 2011

Period	Annual growth in licence value (nominal)	Annual growth in licence value (real)
1975 – 1985	12.7%	2.9%
1985 – 1995	12.2%	6.6%
1986 – 2011	9.1%	5.6%

Sources: Foletta (1986), KPMG (1999), VTD data

Many have pointed to the introduction of assignments as the start of many of the industry’s observed problems with ‘investors’, summed up by one submission:

What is the purpose of a taxi licence? It used to be to operate a taxi-cab and provide a personalised door to door service for the travelling public. Then licence assignment was introduced, during a period of government insanity, and is now the most common operating structure... The ability to assign your licence goes back about twenty years when after much agitation and lobbying from long term licence owners, the government of the day allowed owners to lease or assign their licence to another party. Allow them to use their licence as a form of superannuation if you like. With one fell swoop of the legislator’s pen they not only added another [item] to an already long list of expenses, but put in place the largest single expense item...⁵⁹

However, the Foletta inquiry noted that the industry already had a number of existing problems in 1986. In particular, poor driver remuneration, high licence values and an insufficient number of taxis to meet peak demand were all evident at the time of the inquiry. The assignment of licences from the late 1980s could not have caused any of these problems, although, arguably, it could have accentuated them.

54 ESC Submission, Op. Cit., p.VII and p.34

55 VTA, Submission to the Taxi Industry Inquiry, SS60C, p.1

56 Ambassador Taxis, TaxiLink and Cabways, Op. Cit., p.30

57 McQuillen, Rob (2001), Op. Cit., p.12

58 Inquiry calculation based on VTD data. Note that not all metropolitan licences are assignable

59 Holger Hansen, Op. Cit., p.1

In its 1999 report, KPMG argued that assignments were likely to have had a beneficial effect on service performance:

The effect of the widespread introduction of assignment in 1987 has been to act as a 'productivity shock' – taxi-cabs are being worked harder (driving more paid and unpaid kilometres) and more professionally (more fleet operators) than has occurred in the past (when there were more single owner-drivers). This in turn has increased pressure on owner-drivers to work their own cars harder (through leasing to other drivers) to make profits. This is likely to have had the result of reducing costs – as such it has been an efficiency-enhancing measure – as was recognised in the Foletta Report which recommended the opening up of assignments.⁶⁰

Subsequently, the McQuillen review presented a different view, arguing that changes to assignment and licence transfer policies had given rise to a 'field day' for investors. McQuillen noted that assignment had "introduced a third party in the revenue chain [which]... has had a negative effect on the overall viability of the industry".⁶¹ McQuillen recommended that licence ownership and assignments be restricted to those with industry 'involvement'. If assignments were to continue, the recommendation was to regulate assignment fees to produce a 'low risk' yield on the licence value.

The Chairperson of the ESC, Dr Ron Ben-David, argued in a paper given to the inquiry's expert Independent Roundtable that assignments allowed an obligative instrument to become a purely financial asset and that "the creation of assignments was an outright failure in public policy; and unfortunately it has now been perpetuated for decades".⁶²

Three arguments are commonly made against the assignment and transfer of licences:

- Assignments decrease the accountability of the licence owner for the service and lead to declines in service quality relative to an 'owner-driver' model of service.
- Assignments and licence transfers raise licence values and prices for taxi services.
- There are excessive transactions costs deriving from the assignment and transfer of licences.

10.3.3. Accountability for performance

The assignment of licences has allowed licence ownership to become divorced from actual service provision. Reforms to the licensing regime in 2007 were intended to increase the accountability of licence owners for service performance. Accreditation requires licence owners to ensure that the operator is accredited and complying with the standards relating to safety and customer service standards, and to act to rectify any breach by an operator of the standards relating to safety and customer service.

The inquiry has heard that, in practice, licence owners have little motivation or ability to ensure that taxi operators provide high quality services to consumers. This, in part, appears to reflect difficulties with defining business and service standards, which are largely aspirational and subjective.⁶³

The VTD suggests that:

There are few, if any, positive service outcomes that arise from allowing licence holders to be removed from the operation of the taxi under the licence.⁶⁴

– and –

It is generally believed that the industry accreditation scheme has done little to promote a greater involvement of licence holders in the monitoring of operators' service delivery.⁶⁵

In its submission, the DOT makes the following observation in respect of industry structure:

...the link between financial return and the provision of quality taxi services has been effectively severed. Over time, the structure of the industry has become one in which many of the participants:

– avoid responsibility for the actions of other participants;

– avoid responsibility for the quality of service a taxi user receives; and

– are able to extract profit in the absence of any real financial incentive to improve the quality of service a taxi user receives.⁶⁶

60 KPMG (1999), Op. Cit., p.63

61 McQuillen, Rob PSM (2001), Op. Cit.,

62 Ben-David, Ron (September 2011), Op. Cit., p.12

63 VTD, Op. Cit., p.25

64 Ibid., p.28

65 Ibid., p.29

66 DOT, Op. Cit., p.14

Many licence owners do not deny their lack of accountability for service, seeing their role primarily as being an investor:

I am a license holder that purchased my license as an investment. I have no issues in saying this, just like people buy houses, commercial properties etc for investments. The financial markets dictate property prices and rentals/assignment prices. How can the government set a limit on assignment prices, does it set limits on what residential or commercial properties are allowed to be leased for.⁶⁷

I view my role as that of an investor, with no specific involvement in service provision.⁶⁸

However, some licence owners do acknowledge the existence of a connection between the licence holder and the taxi service:

Taxi licence owners should be and already are responsible for on the ground services...a large number of licence owners have spent and continue to spend time in the industry...There would not be one licence owner who did not have the best interests of the passenger at heart.⁶⁹

One submission argues that the various roles of licence owners and operators are important to service delivery:

To the extent that it is said that there are too many people involved in the delivery of the service which results in a greater cost to the consumer, I say that this is a simplistic and naive view. The proposition will be valid only if the middle men did not add value to the process. This is not the case in the taxi industry because:

- Owners supply capital and accordingly have a vested interest in ensuring that the industry provides a good and efficient service (so as to ensure that the value of the licence is maintained and increases).*
- Operators supply infrastructure, management, coordination and systems that enable the business to run efficiently.*
- Operators select drivers and ensure compliance and provide support to drivers from time to time.*
- Operators ensure that owners receive a reasonable return on their investment.*

If operators were cut out of the system who would satisfy these needs? Who would provide back up if a driver became ill or a vehicle broke down?⁷⁰

It is clear there is a divergence of views, even among licence owners, about the role of the licence owner in service performance. The inquiry notes that at least some licence owners believe they have no responsibility for service performance. This might be thought to lower service quality. However, this effect may be moderated by those licence owners who do believe they have a 'vested interest' in operators who lease their licences providing high service quality.

A further factor exists that is commonly overlooked and that contributes to poor service quality: the nature of competition in the market for taxis more generally. Ineffective competition means that signals about quality are muted and this does not seem related to licences at all. This may be explained by an analogy with the value of land. A licence has some similar characteristics to well-sited land (such as in Melbourne's CBD): land is scarce and business owners will compete to acquire land on which to conduct their business. Like a taxi licence owner, the land owner (landlord) has no responsibility for service provision, but it is usually the case that the operator of the business on the land will provide a good quality service. Competition between businesses will ensure that 'bad' operators cannot prosper.

Translating this to taxi services, the problem in the current market for taxi services is that even if an operator offers poor-quality service, the effect of this on the overall market demand for taxi services will be small.⁷¹ It is therefore unlikely to reduce the future financial returns on the licence. This not only means that 'absentee' licence holders can seek to maximise their returns without having to be concerned about the quality of service that is provided, but it also implies that owner-drivers have similar incentives.

Some of these incentives might be circumvented by operators offering better service quality; for example, through offering direct bookings or via a secondary network. But again, these service quality incentives seem to apply equally to both assignee operators and owner-drivers. There is no reason to expect that assignee operators will deliver a worse service quality than owner-drivers.

67 Anonymous licence holder, response to licence holder survey

68 Anonymous licence holder, response to licence holder survey

69 Anonymous licence holder, response to licence holder survey

70 Anonymous licence holder, response to licence holder survey

71 Another way of saying this is that the demand for rank and hail taxis is a function of the average quality of taxis. Because reducing the quality of a single taxi does little to the quality of taxis on average (and therefore demand for taxis), operators have strong incentives to reduce quality if this can reduce costs

10.3.4. Effect on taxi operators and consumers

A second argument about the detriment from allowing more widespread assignments is that they create a cost that must be recovered by taxi operators and ultimately by consumers. Allowing assignments and transfers creates an 'investment market', which bids up the prices of assignments and licences.

If no assignments or transfers were allowed, it would not change the fundamental restriction on taxi licences. Rather, the profit (the excess of revenues over the actual expenses of operating the taxi) able to be earned from operating a taxi would become hidden. As the market for taxi operation is reasonably competitive (there are few barriers to potential buyers of assignments), the assignment value gives an accurate measure of how much profit can be earned from operating a taxi.

Removing the ability to assign a licence could result in a benefit to consumers because assignment values could be removed from the 'fare model' that is used to set taxi fares: these values would no longer be a relevant cost of operation for licence holders. This might imply a reduction in fares of around 15 to 20 per cent could be achieved.

Against this, removing the ability to assign means there would be a significant increase in owner-drivers, and fewer (if any) fleet operators. To the extent that fleet operators are more efficient than owner-drivers at providing services, the efficiency of the total fleet may reduce. Further, there is evidence that in taxi services that are dominated by owner-drivers, there are issues with service availability at night time. For example, this is an issue with London black cabs. In the absence of further licences being issued, removing the ability to assign licences may lead to service availability worsening at peak times.

10.3.5. Licence broking and transaction costs from assigning and selling licences

A further detriment associated with assignments and licence transfers – and one raised in several submissions – is that market distortions are caused by licence brokers. Licence brokers arrange for both the sale of licences and the assignment of licences. Brokers take on the function of 'making a market' in taxi licences. They seek to match buyers and sellers, and the value they create in this matching provides them with a margin.

Licence brokers are regulated under the *Transport (Compliance and Miscellaneous) Act 1983* through rules authorised by the VTD.⁷² These rules, set out in the *Transport (Taxi-Cab Licences – Market and Trading) Regulations 2005*, specify that:

- Taxi-cab licence brokers (dealing with the transfer or assignment of licences) must be approved by the VTD
- Approval requires two years 'relevant experience' in a commercial environment or acting as a business principal
- Approval will not be given if the responsible person has been convicted or found guilty of dishonesty or fraud offences.

The rules also specify a number of obligations on brokers, including the obligation to act in the best interests of their clients, keep records and hold insurance.

The Victorian Government has tried previously to increase the transparency of information available to market participants to improve the operation of matching buyers and sellers of taxi licences and assignments. In 2006, a subsidiary of the Bendigo Stock Exchange (BSX) was contracted by the DOT to operate a taxi licence trading platform and to 'licence' taxi licence brokers. Traders were to be subject to BSX audit requirements. This scheme was not a success. Trades did not occur 'on' the BSX platform but were merely reported to the BSX. The DOT – BSX contract expired in March 2011 and was not renewed.

The inquiry has heard a number of concerns with how brokers are currently operating in markets for assigning and transferring licences:

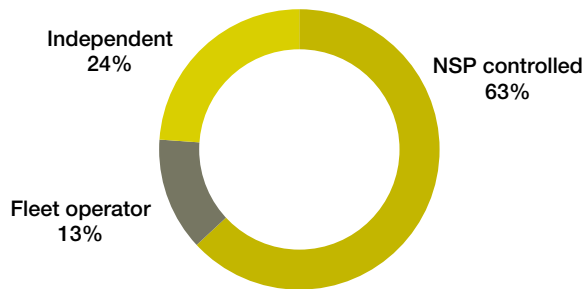
- Brokers are able to exploit vulnerable operators, such as those whose assignments are expiring but who have committed capital to the industry (such as purchasing a vehicle under finance) that cannot readily be recovered.
- The VTD points to instances of 'commissions and under the table payments' in relation to assignments and reassignment of licences, citing instances it characterised as 'wide-spread':

“...requiring assignees to pay large cash payments to taxi licence traders or intermediaries at the commencement of an assignment, and again at the end of an assignment term in order to obtain a further period of assignment (ie renewal)....The failure of an assignee to meet such a demand generally results in the assignee not obtaining, or losing, an existing licence.”⁷³

⁷² The inquiry also considers that taxi brokers come within ambit of the *Estate Agents Act 1980* and accordingly should be licensed to operate under this Act. This requirement appears to have been overlooked by the transport specific regulation

⁷³ VTD, Op. Cit., p.30

Figure 10.4 Taxi assignment market share by broker type, 2009 to 2011



Source: VTD data

- Brokers are often affiliated with the major NSPs. These brokers are said to be keen to control the market for assignments on the basis that they can secure other streams of revenue from the taxi operator's use of the NSP's services, such as payments processing systems, vehicle fit outs and affiliation fees.

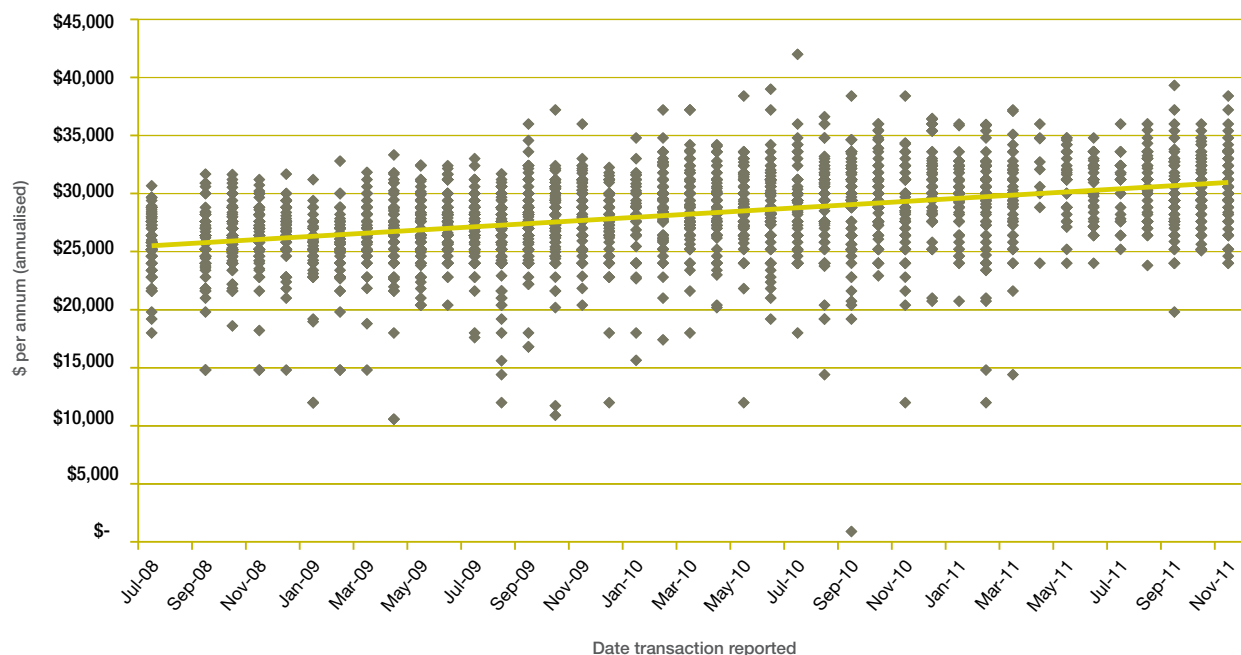
The inquiry notes that the brokering market is split between NSP-controlled brokers, large fleet operators, and independent brokers (brokers that are neither operators or licence owners). VTD data indicates that the NSP-controlled brokers have the largest share of the market, as shown in Figure 10.4.

The inquiry has received a small number of submissions about the role of brokers. A submission from AMB Taxi Brokers argues that the true market value of assignments is in the vicinity of \$3,200 per month (\$38,400 per year). AMB states it has a waiting list of operators willing to pay this amount. It says that licence holders and operators engage in cash transactions without records and from time to time AMB is approached to facilitate these kinds of payments. However AMB told the inquiry they do not engage in cash transactions or offer incentives relating to taxi licence or assignment transfers.⁷⁴

Other confidential submissions suggest that some brokers have acquired a reputation for being 'ruthless' with operators and for using sign-on fees, and are artificially inflating the value of assignments (beyond their 'fair and reasonable' values). On the other hand, the inquiry received many submissions from licence owners that indicate they are receiving payments from brokers that are well below the average price, even for assignments recently renewed.

Analysis of assignment data supplied by the VTD reveals significant discrepancies in assignment prices. The inquiry recognises that licences are not traded with identical conditions: in particular, different terms may be offered in relation to guaranteeing payment to the licence holder and may include other assets such as a vehicle. However, even taking account of these factors, the persistently high level of price dispersion for assignments (illustrated in Figure 10.5) suggests that the assignment market is not close to being fully efficient. Efficient prices would take account of all relevant information about the assets for sale and would be expected to be in a much tighter range than that observed.

Figure 10.5 Price dispersion for metropolitan taxi licence assignments, 2008-2011



Source: VTD data

⁷⁴ AMB Australia (2011), Response to the Taxi Industry Inquiry's survey regarding the role of taxi brokers in Victoria, unpublished, p.1

The practices raised with the inquiry are concerning. In principle, brokers have a legitimate role in finding the best deal for their clients (be they sellers or buyers of licences or assignments). However, the allegations regarding cash payments and under-reporting are serious and cast doubt on the benefits of the prevailing system of licence and assignment brokerage.

The inquiry's analysis suggests that the findings made by the Victorian Government and by the ESC in 2005 are still pertinent. These findings resulted in the (unsuccessful) attempt to have more trading of assignments occur on an exchange. These reforms were designed to increase transparency to reduce transactions costs and the inquiry's view is that these objectives remain important.⁷⁵

Inquiry findings

- There is a correlation between increases in assignments and assignment prices with decreases in service performance. However, this does not mean there is a causal relationship.
- Assignments allow licence holders to transfer all responsibility for service provision to operators. This may be responsible for a decline in service, although there are limited incentives for performance generally. There are limited incentives for high service quality under any restrictive licensing regime.
- Assignments have ambiguous effects on industry efficiency and fares. In practice, they have been included as costs in fare-setting models and so consumers pay more than they need to. However, assignments can improve the efficiency of the taxi fleet by allowing more efficient operators to build fleets.
- The industry practices relating to the assignment of taxi-cab licences appear to be imposing heavy costs on both licence owners and assignees of licences.

10.3.6. Sub-assignments

A sub-assignment of a licence is prohibited under Section 150(5) of the *Transport (Compliance and Miscellaneous) Act 1983*.⁷⁶

The inquiry understands that this practice most commonly occurs when a driver takes a vehicle under a set price bailment agreement for a period of time and shares the driving of that vehicle with another driver (who is charged rental for the vehicle by the first driver).

The VTD refers to the practice of sub-assignment in its submission, characterising the main effect of this (illegal) practice as follows:

*A sub-assigning operator becomes a further person diverting taxi revenue from participants actually contributing to service outcomes, and undermines regulatory attempts to establish a chain of accountability.*⁷⁷

The VTD comments that its experience with enforcing sub-assignment laws also suggests that these practices could potentially undermine other reforms such as moves to further limit assignments on existing licences.

The inquiry notes the VTD's concerns and acknowledges the views of other market participants about the detrimental nature of these practices (including the VTA). These practices appear to expose a broader weakness within the regulatory framework, in that the licensing regime restricts the number of vehicles rather than ensuring the quality of service provided by operators and drivers. It also raises the issue of whether operators should be allowed to abrogate responsibility for their drivers by using bailment arrangements, as opposed to employee arrangements that would place greater responsibility on the operator for the actions of employees.

10.3.7. Three-year limit on assignments

There are around 80 assignments made or renewed each month. Section 150(4A) of the *Transport (Compliance and Miscellaneous) Act 1983* states that assignments can only be for a maximum of three years.

The VTD supports the amendment of the maximum assignment period, recommending that it be aligned with maximum vehicle age limits. This is because the assignment limit can create a situation of vulnerability for an assignee approaching the expiry of an assignment. In seeking renewal of the assignment, the assignee may be offered unfavourable terms because the assignor may be aware that the assignee has financial commitments (such as paying for a vehicle).

⁷⁵ The influence of taxi licence and assignment brokers on assignment prices is examined in greater detail in Appendix E

⁷⁶ The assignee of a licence under this section shall not assign or attempt to assign his rights under the assignment

⁷⁷ VTD, Op. Cit., p.26

Technically, the Act states that assignments cannot be ‘renewed’.⁷⁸ This appears to mean that the maximum limit could be quite harmful in practice, although it is probably more likely that it is being ignored. Nonetheless, it still operates to disadvantage assignees of licences. The inquiry can see no reason for its retention.

Inquiry finding

- The three year limit on assignments is unnecessary and harms the interests of assignees without benefiting assignors of licences.

10.4. Taxi-cab zones

Taxi-cab licences are issued subject to conditions that restrict the areas in which taxis can operate. They also impact on competition between network service providers or depots.

10.4.1. Current zones and conditions and their rationale

Licences are issued for the metropolitan zone, the outer suburban zone (covering Dandenong and Frankston), the Geelong, Bendigo and Ballarat urban zones and country zones.

The boundaries of the metropolitan, outer suburban and Geelong urban zones are specifically designated by roads, while the boundaries of the Bendigo and Ballarat urban zones are the areas within a radius of 13 kilometres and 11 kilometres respectively of the main post offices. The Mornington Peninsula is covered by two zones – the Western Port and Port Phillip zones – the boundaries of which are defined by specific roads. The boundaries around country towns vary, with many being a designated radius from the local post office (see Table 10.4). The size of this radius appears to vary widely for reasons that are unclear.

However these boundaries are defined, it is likely that as settlement patterns and population change over time they will become less and less appropriate, unless they are changed.

Table 10.4 Radius applying to a selected number of towns

Bairnsdale	12 kilometres
Warrnambool	10 kilometres
Shepparton	8 kilometres
Traralgon	4.8 kilometres
Wodonga	3.2 kilometres

Generally, only cabs that are licensed to a particular zone can engage in rank (expressed as ‘stand at designated standing places’) and hail work in that zone. However, it is possible for taxis to undertake pre-booked work in other zones. For example, metropolitan taxis can operate in the rest of the state, with some restriction in the outer-suburban zone. The condition placed on conventional metropolitan zone taxi licences is that “the licensed vehicle/s may be operated for the carriage of passengers from places within the metropolitan taxi-cab zone... or from any place in cases where the vehicle is ordered and bespoken from an approved depot to any place within the State of Victoria, save and except on any journey wholly within the outer suburban taxi-cab zone...”⁷⁹ This appears to indicate that metropolitan-zoned taxis can undertake journeys that are wholly within the urban and country zones when they are pre-booked.

Similarly, outer suburban taxi-cabs can operate in their own zone and do pre-booked work elsewhere in the state, but cannot undertake a journey wholly in the metropolitan zone. Similar conditions apply in relation to the Geelong, Bendigo and Ballarat taxis, except that they are prohibited from undertaking journeys wholly in the metropolitan and/ or outer suburban zones. Taxis licensed to the Western Port and Port Phillip zones are required to operate in those zones. Country-zoned taxis can undertake bookings outside their zones but cannot undertake any journey wholly within any of the non-country zones.

The rationale for maintaining these restrictions is not spelled out clearly anywhere, but seems to reflect a combination of history, local taxi operator protection and a desire to ensure the availability of services in specific locations. It has been suggested that the Transport Regulation Board introduced zones to ensure cabs were available in outer suburban areas, rather than just going where most of the work was available. However, if this was the case, it is difficult to explain why metropolitan-zoned cabs are prevented from undertaking journeys solely within the outer suburban zone by their licence conditions.

78 See section 150(4C): An assignment under this section cannot be renewed and cannot be varied so as to extend the period of the assignment

79 General condition 1.4, Conditions Governing the Operation of Metropolitan Zone Taxi-cabs, effective from 13 December 2008

Historically, the zones generally reflected the catchment areas of local taxi-cab companies. They gave some protection to members of the local taxi cooperative against operators coming into the zone from other zones. In the metropolitan area, zones largely became redundant as taxi depots merged or were taken over by bigger operators and hire car licences (which provided services in outer suburbs) were converted to taxi licences. But remnants of the past remain, despite previous reviews having recommended the abolition of zones.

10.4.2. Analysis of zones in previous reviews of Victorian taxi regulations

Foletta review

In 1986, the Foletta review⁸⁰ recommended that the Road Traffic Authority extend the metropolitan zone taxi boundary to include the then Frankston and Dandenong zones and convert all the country licences in these zones to metropolitan licences with full rights. At the time, the fares that applied in the two zones were different to those in the metropolitan zone. Foletta noted that most people considered the Frankston and Dandenong zones to be part of the metropolitan area and that uniform fares should apply across the whole metropolitan area. He considered the existing boundary of the metropolitan area to be illogical.

These recommendations followed lobbying by Black Cabs, which considered the zones severely restricted the availability of cabs in newer areas. The Frankston and Dandenong depots argued that the zones helped to maintain local services by keeping their cabs in their zones. Foletta recognised that the Frankston and Dandenong depots provided a better level of service, but considered that they would continue to do this without the zones. The depots were strongly established in their local areas and well placed to meet competition from metropolitan operators.

KPMG National Competition Policy review

KPMG examined legislative restrictions on competition and considered whether the benefits to the community of these identified restrictions outweighed the costs associated with them. One of the restrictions identified by KPMG was zoning, which had the effect of limiting entry of potential competitors.

The review considered there was little substance to the claim that zoning protected operators who had greater understanding and experience of local issues and concerns, commenting that “in the absence of the zone, the travelling public would choose to use the service that offers the best combination of price and service quality”.⁸¹ The review considered that zones might help to ensure that service was maintained across a zone: “We are unable to quantify the magnitude of this benefit, but suspect with the current regulations in place on fares and entry it could be significant.”⁸² However, the outer suburban zone provided less of a benefit in this respect.

*There is substantial traffic already existing in these zones (which is reflected in the similar licence values in comparison to the metropolitan zone), and the impact of merging the zones would be relatively small. Other outer suburban areas of Melbourne do not appear to have significant supply problems.*⁸³

While the public benefits associated with zoning were considered limited, there were significant costs created by zones, especially as a result of dead running:

*When a taxi-cab moves out of its zone on a fare it basically is resigned to returning to the zone without a fare. This increases the costs of operation and can even discourage working outside of that zone.*⁸⁴

*There are further costs from limiting taxi-cab mobility. During high demand periods in certain areas (e.g. Saturday nights in Melbourne) it is possible that outer suburban zone taxicabs could alleviate supply shortages and still service the outer suburban zone area. Similar situations could apply in country areas.*⁸⁵

The review concluded that the outer suburban zone “is a restriction on competition that is likely to have costs that outweigh its benefits. The zone makes an artificial distinction between this area and the Melbourne metropolitan region and should be removed.”⁸⁶

Less information was available to the review to determine whether the benefits of country zones outweighed their costs. However, the review pointed out that the higher proportion of booked jobs in country markets weakened the case for zoning. This was even more the case if ‘public interest’-based restrictions on entry were removed as recommended by the review. Accordingly, the review concluded that these zones should also be removed.

80 Foletta, Bruce (1986), Op. Cit.

81 KPMG (1999), Op. Cit., p.96

82 Ibid., p.96

83 Ibid., p.96

84 Ibid., p.97

85 Ibid., p.97

86 Ibid., p.98

McQuillen review

Without undertaking further research or analysis, the author of the McQuillen review reached a different view in relation to zoning. He felt that there appeared to be a strong argument for the retention of the Frankston and Dandenong zones and added that there was anecdotal evidence of service shortages in outer suburban areas, particularly in the Shire of Yarra Ranges and the City of Werribee. There was no consideration of whether restrictions on licence numbers in general may have had this effect. McQuillen further commented:

The continuing metropolitan sprawl into Pakenham, Berwick, Cranbourne, Lilydale, Hoppers Crossing, Craigieburn etc. does raise some concerns about the maintenance of good service. I am not confident, on the information and time available to make a judgement one way or the other. I recommend that any decision on the future of zoning be deferred until such time as a proper study can be made of the issue.⁸⁷

The Victorian Government responded to the KPMG and McQuillen reports in 2002 by issuing a 17 point taxi and hire car reform program, which included the following points:

- 13. The country zone structure establishing separate taxi markets will be reviewed in 2002/03 to ensure the structure meets customer needs.*
- 14. The requirement for taxis to operate from a taxi depot will be retained to ensure there are centralised booking and dispatch services.*
- 15. Future arrangements to apply in the outer metropolitan taxi zone will be reviewed in 2002 and will be considered in light of taxi performance standards and a measure of existing service levels in those areas.⁸⁸*

The inquiry notes that no subsequent study of the merits of retaining the outer suburban zone occurred.

A study was undertaken in 2004 of country zones by a consultant to the VTD. This review (which does not appear to be publicly available) focused on areas where neighbouring zones were likely to have a significant amount of traffic between them. The review was nominally aimed at improving service for consumers, although the consultant appeared to rely entirely on representations from the VTA and from operators within the zones studied.⁸⁹

Perhaps unsurprisingly, the consultant was able to find few problems with the current arrangements – noting minimal complaints by consumers to operators – and primarily focused on problems that occur when taxi operators do work that is completely out of their zone. Little primacy was given to the costs of the current arrangements on operators (reduced operator viability impacts on consumers when the regulator takes this into account when deciding whether to issue new licences). Recommendations from the review were to make the zoning restrictions more restrictive by preventing operators from one zone doing pre-booked work entirely within another zone.

10.4.3. UK Department of Transport and other analyses of zoning

Zoning is a common feature of the taxi industries in most jurisdictions and countries. The UK government has developed a best practice guide in relation to taxi industry regulation for local authorities that supports the abolition of zones.

Zoning tends to diminish the supply of taxis and the scope for customer choice – for example, if fifty taxis were licensed overall by a local authority, but with only twenty five of them entitled to ply for hire in each of two zones. It can be confusing and frustrating for people wishing to hire a taxi to find that a vehicle licensed by the relevant local authority is nonetheless unable to pick them up (unless pre-booked) because they are in the wrong part of the local authority area. Abolition of zones can also reduce costs for the local authority, for example through simpler administration and enforcement. It can also promote fuel efficiency, because taxis can pick up a passenger anywhere in the local authority area, rather than having to return empty to their licensed zone after dropping a passenger in another zone.⁹⁰

An interesting study on zoning-type restrictions was undertaken by Flores-Guri, with specific application to the inefficiencies caused by the separate Boston-Cambridge zones in the United States. Flores-Guri found that eliminating zones between closely aligned areas can improve market performance, even if one is obliged to take account of the profits earned by operators in both zones:

⁸⁷ McQuillen, Rob PSM (2001), Op. Cit , p.28

⁸⁸ See chapter 7 for more detail about the 17 point program

⁸⁹ McQuillen, Michael (2004), Review of Zoning Arrangements for Country Taxi Cab Operations, January 2004, Appendix 1

⁹⁰ UK Department of Transport (March 2010), Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, London, para. 90

Merging the taxicab markets of two closely related adjacent cities can improve market efficiency, even when taking the existence of extranormal profits into account. The number of available taxicabs increases as taxicabs are allowed to pick up passengers in the adjacent city. If the taxicab industry's profit allowance is left unchanged, the benefits of the merger can be passed on to consumers through lower prices and wait times.⁹¹

Flores-Guri further noted that the higher the probability of rides that cross zones, the larger the gains in efficiency. Further, and critically, Flores-Guri suggested that concerns about a loss of service in one of the zones might be misplaced: "evidence that taxicab profits are similar in both cities would indicate that taxicabs will continue to serve both cities once exclusive cruising regulations are removed."⁹²

10.4.4. Zoning issues raised during the inquiry

A number of discrete issues about the effect of zoning regulations were raised with the inquiry, including:

- The designation of the Melbourne metropolitan zone boundary
- Whether the outer suburban zones should be maintained or brought within the metropolitan zone
- Service concerns in the Yarra Valley potentially caused by zoning restrictions
- The costs of Avalon Airport being in the Geelong taxi zone when much of the traffic from this destination is to or from Melbourne
- The impact of zoning regulations on competition between networks.

Metropolitan Melbourne boundary

The inquiry received a submission from the Eastern Transport Coalition, a grouping of seven municipalities in Eastern Melbourne. The Coalition was critical of the current operation of the metropolitan and those country zones that border the metropolitan zone:

The Metropolitan Taxi Zone boundary extends through three of the councils (Manningham City Council, Knox City Council and Yarra Ranges Council) who are members of the Eastern Transport Coalition which are all also located on the edge of the Urban Growth Boundary. As a result the issues faced by these councils with regards to transport and taxi provision are very similar.

The key issue with the operation of taxis within the three Councils is the location and limitations on the operation of taxis outside the Metropolitan Taxi Zone boundary. Many people live within the Country Taxi Zone but access key services, including health, employment, transport, shopping and entertainment, within the Metropolitan Taxi Zone. While taxis operating on either side of the boundary are able to take fare paying passengers to the other zone, they are unable to pick up passengers on the return trip. This often results in passengers being refused travel in both directions causing inconvenience and delay for users and/or poor financial viability for drivers.⁹³

The problem experienced here is illustrative of problems of zoning, particularly when boundaries are not updated frequently to capture areas from which trips to and from the zones are common.

This example is also a useful illustration of the problems that are caused by restrictions on licences. In principle, it should be straightforward to change zoning arrangements so that issues such as the one identified by the Eastern Transport Coalition could be resolved. The metropolitan and relevant country zones could simply be amalgamated and any inefficiencies avoided. However, because the licence values (profits) in the two zones are likely to be very different (with licences that are metropolitan-zoned trading for much higher prices), amalgamation could cause taxis in the existing country taxi zone to leave the area for the higher-yielding metropolitan zone. This could reduce service in the existing country zone. Indeed, even releasing more licences will not solve this problem unless it has the effect of equalising the profits available in serving the two areas. Any new licensees would prefer to service the metropolitan area unless the profits from serving the old zone area are the same.

It is also possible that such problems could be avoided if overlapping zones were created, so that in border regions, there is less likelihood of service refusals and dead running. But this would clearly be a second-best option and a highly-intrusive regulation to enforce.

The outer suburban zone and neighbouring zones

The status of the outer suburban zone has clearly been a point of debate for some time and has been raised again during the inquiry.

91 Flores-Guri, Daniel (2005), 'Local Exclusive Cruising Regulation and Efficiency in Taxicab Markets', *Journal of Transport Economics and Policy*, Volume 39, Part 2, May 2005, p.164

92 Ibid., p.165

93 Eastern Transport Coalition, Submission to the Taxi Industry Inquiry, SS94, p.1

A key issue for the inquiry has been to determine whether the outer suburban zone is causing significant detriments for taxi operators and for consumers. As discussed above, there are a number of sources of potential costs from zoning:

- First, operators within the outer suburban and metropolitan zones may suffer from zoning restrictions due to increased 'dead running'.
- Second, consumers may be harmed because of potential service refusals from drivers who attempt to minimise 'dead running'.
- Finally, consumers may suffer further if the response of the regulator to operator inefficiency caused by zoning is to restrict licences further to maintain service viability. On the other hand, it is arguable that there may be some benefits from a higher level of service provided within the zone compared to if the zone is removed and there are very different licence values between the two merged zones.

The inquiry has sought evidence on these points.

Dead running costs from the zoning restriction may be measured by considering the following data:

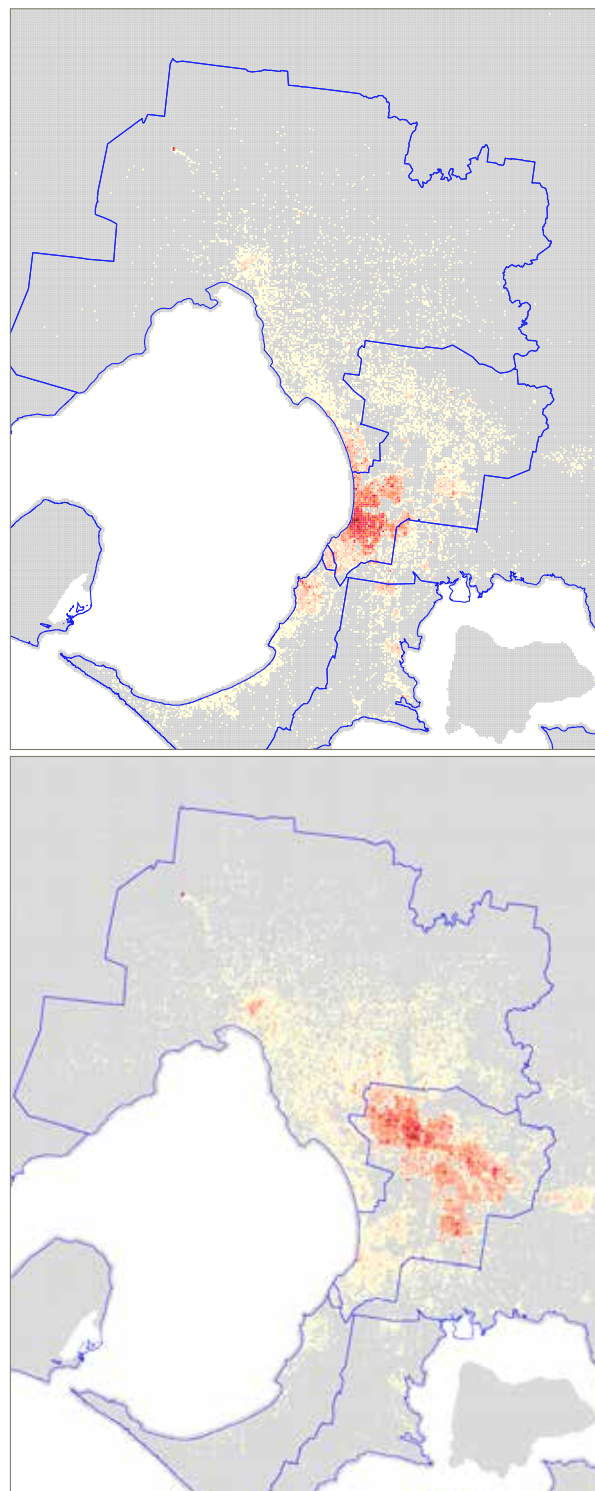
- The number of trips that start in the outer suburban zone and finish in the metropolitan zone.
- The number of trips that start in the metropolitan zone and finish in the outer suburban zone.

The extent of the cost involved for operators will depend upon the frequency of these trips and the distance the trip terminates from the zone boundary. Consumers also bear a cost, because they would have greater taxi availability in the metropolitan zone if the outer suburban taxi was allowed to pick up a fare from the point where the last fare finished (and vice versa).

The inquiry's trip data provides a source of information on the extent of these costs. Spatial data on trips between the metropolitan and outer suburban zones is highlighted in Figure 10.6.

Figure 10.6 Identification of trips between metropolitan and outer suburban zones

Maps 1 and 2: Frankston and Dandenong 'meter offs'



Red areas have higher trip frequencies – from light (least frequent) to dark (most frequent)

Source: TII analysis of Frankston and Dandenong NSP data 2011

Each of these maps indicates that a significant number of trips finish outside of the zone in which the trip began.

A further summary of these data is provided in Table 10.5. This indicates that 15 per cent of trips involve some form of 'dead running' beginning or ending outside of the zone. Further analysis of these data reveals that 5.9 per cent of trips taken with taxis affiliated with Frankston start a journey in the outer suburban zone and finish in the metropolitan zone; this applies to 8 per cent of Dandenong taxis' trips. These data suggest that there would be some immediate efficiency benefits from merging the two zones, as taxis would no longer need to run back empty.

Table 10.5 Overall outer suburban trip zone start and end zone statistics

Trip type	% of total
Beginning <i>inside</i> the outer suburban zone and ending <i>outside</i> the outer suburban zone	12.4%
Beginning <i>outside</i> the outer suburban zone and ending <i>inside</i> the outer suburban zone	1.3%
Beginning and ending <i>wholly inside</i> the outer suburban zone	85%
Beginning and ending <i>wholly outside</i> the outer suburban zone	1.3%
Total proportion of trips either beginning or ending outside the outer suburban zone	15%

Source: TII

This does not account for the number of trip refusals by taxis that refuse to go out of zone. There does not appear to be any way to measure this effect, although a submission by Frankston taxis suggests that dead running is a problem for metropolitan zone taxis that refuse to service Frankston-bound fares.⁹⁴

The benefits from zoning are often couched in terms of better service. This argument only has force if zones were amalgamated and there were very different licence values between the two merged zones. That is because vehicles will tend to work more in the area with the higher licence value (indicating greater profitability), leaving the other zone area less well served than before. Of course, any drop in service could also be addressed with the release of more licences until the profits available in each area are similar.

The inquiry notes that licence and assignment values (profits) that may be earned in servicing outer suburban zones are not substantially less than those earned in servicing the metropolitan zone. Data from the VTD indicates that, in 2011, average assignment fees per month in the outer suburban zone were within 20 per

cent of those recorded in the metropolitan zone (around \$25,000 compared to \$30,500 in metropolitan areas) and licence prices were over \$430,000 in the outer suburban zone. This suggests that removing the zone will not cause many (if any) taxis to seek work outside the outer suburban zone.

Equally, the inquiry notes that a similar case could be made with respect to the Western Port and Port Philip zones, where the last recorded licence sales were in excess of \$300,000. During discussions with Peninsula Taxis, the inquiry was advised that licences are now considered to have a value as high as \$800,000 in the Mornington Peninsula zones.

There is some performance data that shows that the 'overall satisfaction' of consumers is higher for Frankston and Dandenong taxis. The DOT surveys of satisfaction have generally found higher ratings for these services:

Analysis, using the last 12 months of data, revealed that Frankston Taxis and Dandenong Taxis continued to receive the highest ratings by taxi travellers (78.1 and 71.7 respectively, on the 0-to-10 scale), whilst the two most widely used taxi companies, i.e. Yellow Cabs and Silver Top Taxis, received the lowest ratings (64.8 and 62.4 respectively).⁹⁵

The inquiry notes that this service performance does not imply that amalgamation of the zone will lessen such performance. Current superior performance does not necessarily demonstrate that amalgamating the zone will cause worse performance within the old zone area. In fact, there are three reasons to expect that there will be no deterioration in performance and that service performance could in fact improve:

- The similarity of licence values between the zones indicates that vehicles affiliated to the Frankston and Dandenong networks will not have a major incentive to work solely outside these areas.
- There should be a relatively equal number of vehicles that come into the Frankston and Dandenong areas for fares as leave these areas for fares terminating in the current metropolitan zone.
- Finally, it is not obvious why the advantages of NSPs in the outer suburban zones will not remain a source of competitive advantage over the metropolitan zone NSPs. Increasing the scope for competition between NSPs in these areas should benefit customers.

94 Frankston Radio Taxis Pty Ltd (2009), *Review of the Boundaries of the Frankston Taxi Zone – Submission to the Victorian Taxi Directorate*, provided to the Taxi Industry Inquiry by the VTD, p.11

95 Wallis (2010), Op. Cit.

Avalon Airport

The service of Avalon Airport highlights further performance problems that can result from zoning restrictions.

Avalon Airport is 65 kilometres from Melbourne and 19 kilometres from Geelong. It currently sits in the Geelong taxi zone. This means that only Geelong-zoned taxis are able to use the Avalon Airport rank and accept fares. Melbourne-zoned taxis can only drop off passengers at Avalon Airport or arrange for a pre-booked pick-up at the airport.

The performance issue is that many (and perhaps most) passengers using Avalon Airport are bound for Melbourne. This implies that having Avalon Airport in the Geelong zone is particularly costly – because Geelong taxis must ‘dead run’ back to the Geelong zone after a Melbourne drop-off (again, unless a pre-booked fare can be found in Melbourne going to Geelong) and Melbourne taxis must ‘dead run’ back to the Melbourne zone.

Geelong Taxi Network put to the inquiry that the issue is not, in essence, a zoning issue, but related to the expensive fare between Avalon and Melbourne (over \$100). It argues that changes to the fare and the zone will disadvantage Geelong-based drivers. This view is not surprising and reflects the interests created by zoning restrictions in combination with high fares for long journeys.

It would be far more efficient – and no more costly for consumers – if both Geelong and Melbourne taxis could pick-up and drop-off at Avalon Airport. This may require some re-organisation of ranks at the airport so that Geelong taxis take fares to Geelong and Melbourne taxis take fares to Melbourne.

Zoning licence conditions restrict competition between networks

Detailed scrutiny of the conditions imposed on licences by the regulator raises still more concerns about the zoning provisions. In particular, it seems clear that the provisions not only restrict competition between operators directly, but also restrict competition between NSPs.

Metropolitan zone taxis for conventional perpetual and peak licences ‘must at all times be operated under radio control from a depot approved by the VTD for the receipt and dispatch of bookings for taxis licensed to operate in the metropolitan taxi-cab zone and must be fitted with fully operational Global Positioning System equipment linked to that depot’.⁹⁶

The general practice of the regulator has been to only approve depots⁹⁷ that are physically located in the metropolitan zone. The operator of any new licence then has to gain access to one of the approved depots in the zone, thus preventing depots outside the zone from becoming active competitors of the depots in the zone. This is made quite explicit in the licence conditions relating to the outer suburban and urban zones: for example, the outer suburban licence conditions require that the licensed vehicle ‘must at all times be operated under radio control from a depot approved by the VTD that is *located within* the outer suburban taxi-cab zone’ (emphasis added).⁹⁸

In smaller markets, where there is really room for only one depot to operate efficiently given the existence of economies of scale in the communications function, this rule effectively means that local depots have a monopoly over the provision of booking services in their zones. Competition between depots might be stimulated if operators had a choice of depot and were not restricted to acquiring services only from depots within their zone.

In other country zones, the requirement to operate under the radio control of a depot within the relevant zone does not exist, presumably because many of these locations are just too small to have their own depots. Hence the licence condition only requires that the licensed vehicle ‘must at all times be operated under radio control from an approved depot’.⁹⁹

Inquiry findings

- Current taxi zoning policies are causing a number of issues in Victoria. They are inflexible and are causing costs for taxi operators and consumers where the zone boundaries are no longer appropriate given population growth or other developments.
- Taxi zones are intimately linked to entry restrictions and the value of taxi licences. Reform will require attention to both policies.

96 Based on information provided to the Taxi Industry Inquiry by the VTD

97 This process is now referred to as the accreditation of network service providers (see chapter 7)

98 Based on information provided to the Taxi Industry Inquiry by the VTD

99 Based on information provided to the Taxi Industry Inquiry by the VTD

10.5. Regulation of taxi-cab fares

10.5.1. Nature of existing regulation

Taxi-cab fares are regulated. Fares charged by hire cars are (by and large) not subject to control and must be negotiated between operators and passengers.

The legislative basis for fare controls applied to taxis is section 144A of the *Transport (Compliance and Miscellaneous) Act 1983*, which allows for the Minister for Transport to determine taxi-cab fares. Subdivision 2 of this section requires the Minister to seek advice from the ESC about fares and to receive a report from the licensing authority (the VTD) prior to making a decision about fares. As noted, hire car charges are not regulated but there are provisions in the *Transport (Compliance and Miscellaneous) Act 1983* for the VTD to ensure that 'reasonable fares' are charged.

An important licence condition applied to taxis is that they charge only the fares and hiring rates approved by the VTD. These rates are attached as a schedule to licences. These rates are fixed throughout the whole of Victoria (with a small difference in the charges in country areas). No negotiation on these fares is permitted, with the exception of journeys involving the carriage of passengers to or from further than 80 kilometres from the GPO described in the licence. There are also some exceptions for regular pre-booked journeys.

In practice, there is very little scope for taxi fares to be negotiated. It seems incongruous to enforce such a regulation where prices could be negotiated, in some circumstances, to a lower amount than the fixed fares set by the Minister.

The ESC has conducted two taxi fare reviews (2005 and 2007/08). The scope of these reviews was largely restricted to appropriate regulatory methodologies and issues around creating an efficient fare structure. These reviews were not designed to assess the case for and against fare regulation.

10.5.2. Themes raised in submissions

Taxi fares in Victoria have not changed since December 2008. A core theme in the comments and submissions of many industry participants is the need for a fare rise to result from the inquiry. For example, VTA argues for:

...the need for an immediate fare increase of at least 12.4%. Victoria is now 30% behind NSW and Queensland...A new fare setting model and process is required which considers real operating (including geographic area variations), and compliance costs, and movements in these costs, and provides for fair and reasonable profits at each point in the service supply chain.¹⁰⁰

A further substantive issue related to fare regulation is short fare refusal. Although taxis are generally not allowed to refuse to carry passengers, there is widespread anecdotal evidence that many taxi drivers are refusing short fares. It is possible that this behaviour is in part due to fare controls that are not allowing drivers to recover their costs of operation for these kinds of trips. The City of Melbourne comments:

Anecdotal information, feedback from customers and late night venue owners continues to highlight drivers' reluctance to accept short trips.¹⁰¹

A number of submissions to the inquiry also raise issues about the flexibility of fare controls – in particular, offering fixed fares (fares that are 'off the meter' and do not vary with distance). These issues are particularly important in areas where public transport service coverage is poor and taxi operators are one of the few viable transport options.¹⁰²

10.5.3. The benefits from fare controls

The case for regulating fares charged by taxis essentially relates to the need to address market failures (as discussed in chapter 7).

The economic case for price regulation is normally based on the existence of market power. Market power can derive from underlying market features (such as natural monopoly) and also from regulated restrictions on the market's operation. Generally, the more competitive a market, the less need there is for price regulation. There is a large amount of academic literature on the taxi market and this literature includes contemplation of various reasons why price regulation of some sort might still be appropriate in a taxi market.

100 VTA, Op. Cit., p.2

101 City of Melbourne, Op. Cit., p.10

102 These concerns are discussed in greater detail in chapter 21

Restrictions on entry provide an obvious justification for fare regulation. The scarcity of taxi licences means licence holders have market power, which cannot be eroded by competition. However, there may be a need for fare regulation even when there is no scarcity of taxi licences. This was raised at the inquiry's Independent Roundtable by economist Dr Darryl Biggar who argued that the problems are not simply related to entry controls:

...there seems to be a consensus that while there is scope for conventional market processes in certain taxi sub-markets – particularly the pre-booked market – in certain other taxi sub-markets there is limited or no scope for normal market processes. At least in those sub-markets, therefore, there seems to be an identifiable form of market failure.¹⁰³

Market failures may occur due to the imperfect information and barriers to exercising consumer choice that are common in taxi markets. In these circumstances, competition from greater vehicle availability does not act to hold fares to reasonable levels. It has also been widely noted that these arguments primarily apply to 'rank and hail' taxis rather than pre-booked vehicles. This is perhaps another reason why hire cars have generally not been subject to explicit fare regulation.

For example, the OECD notes that:

Consumers who hail taxis on the street are uncertain about waiting time until the next taxi and, in a market in which fares have been deregulated, about the relative price of the currently available taxi and any taxis that may be able to be hailed in 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 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.¹⁰⁴

Others have also pointed out that particular passenger types may be more vulnerable to price gouging. Some customers, such as tourists, are less likely to provide repeat custom, so there is less incentive to provide exceptional service, or they lack of local knowledge and so may be taken advantage of. Customers in other circumstances, such as those with considerable baggage, the poorly informed and perhaps even customers who have concerns over safety and wish to be taken away from a particular locale, are all vulnerable to paying more than the market rate.

The UK Office of Fair trading found that:

The nature of the rank and hail sector of the taxi market makes it almost impossible for consumers to exercise choice on price as it is very difficult to shop around. Deregulating fares may therefore lead to higher prices. This is particularly important, for example for disabled consumers (who may not have access to alternative forms of transport), for those concerned about their safety (for example if they are catching a taxi late at night), or for those who do not know the local area. In these and other instances, fare regulation protects consumers from being overcharged.¹⁰⁵

Notwithstanding these arguments, the inquiry also notes that in an environment of restricted licence supply, owners of licences can extract profits from those actually providing the service. Regulation of fares offers one way in which these profits can effectively be controlled. However, this potential control has arguably been lost as the profits earned by licence owners are incorporated into fares as a legitimate cost for operators.

10.5.4. Complexities in setting fares

While fare control offers the community certain benefits, it may also impose some substantial costs. Some of these costs relate to the specific type of regulation that has been pursued in Victoria. Some costs appear likely to be prevalent regardless of the particular method of fare control. The primary costs identified by the inquiry include:

- It reduces competition between taxi operators.
- It stifles innovation by service providers that could potentially offer different kinds of services (whether lower or higher quality) with a different fare structure (such as fixed fares).
- The degree of averaging in the fare structure, both across time and across geography, creates distortions in how drivers treat fares of different types (for example, favouring longer trips over shorter trips) and potentially inefficient vehicle utilisation (for example, large queues at the airport).
- It legitimises the economic rents earned by licence holders, which are included in fare setting models as real costs to operators.
- Fare regulation can also lead to 'too much' entry if fares are regulated at a level that allows inefficient firms (taxis with low utilisation) to prosper.

¹⁰³ Biggar, Darryl (2011), Op. Cit., p.12

¹⁰⁴ OECD (2007), Op. Cit., Background Note, p.19

¹⁰⁵ UK Office of Fair Trading (2003), The regulation of licensed taxi and PHV services in the UK, OFT 676, p.60

- It exposes taxi operators to a degree of risk because they cannot readily pass on changes in demand and supply conditions (such as changes in LPG prices) to consumers.
- The regulator may set fares at a level that is too high or too low, with this risk accentuated by the limited amount of information that is provided by industry on costs and revenues.

Of these issues, the last has caused the inquiry particular concern. It is obvious that fare regulation is not likely to lead to efficient behaviours if the fare-setting authority cannot collect accurate data on:

- The number of taxi trips and the distribution of these trips across distances, times and geographies
- Revenue earned and the distribution of this revenue
- Vehicle utilisation data across times of the day and of the week
- Waiting times for consumers at ranks and for booked work
- The costs of vehicles and other important inputs
- The elasticity of demand for different kinds of taxi users and/or trips
- Driver remuneration arrangements.

All of these factors should be relevant to determining whether fares are likely to be set at an efficient level (which allows an efficient operator to recover costs, inclusive of a reasonable return) and establishing fare structures that promote efficient usage of taxis.

These concerns are particularly pertinent for taxis in country areas. Each of these markets has individual characteristics that are difficult to account for in a fare modeling exercise. These concerns are heightened by the nature of demand in these markets. Pre-booked work is far more prevalent, operators rely on repeat business and strong relationships with the local community, and there are opportunities for greater service innovation. As discussed in chapter 20, there may be a good case here for reducing the regulatory burden on operators in country areas by allowing them to set their own fares.

Ultimately, the lack of information available has constrained the inquiry in considering submissions of issues around fare levels and fare structures. Again, this is an issue that has bedevilled previous taxi reviews. The ESC noted in 2005 that:

As a general point, the Commission notes that not only is there very little reliable information or data relating to previous fare adjustments but this observation applies equally to industry data more generally. This has presented considerable difficulties for the Commission over the course of this review and would be expected to hinder the efficient administration of the taxi industry and future decision-making of the Victorian Taxi and Tow Truck Directorate and Government, particularly in light of the recommendations of this review.¹⁰⁶

The ESC repeated this observation in 2008:

At present very little information is collected from industry participants, and this has presented ongoing policy and regulatory and policy problems.¹⁰⁷

It was expected that industry accreditation processes, which required certain data to be compiled by NSPs and operators, would improve data availability for regulatory purposes. The inquiry has found that it has been unsuccessful in fulfilling this objective.

The inquiry makes further findings about how fares should be regulated in chapter 20 and information gathering in chapter 2.

Inquiry findings

- ➔ There are grounds to regulate taxi fares where rank and hail work is common.
- ➔ Regulations that prevent fare competition are potentially costly and offer no discernable benefits.
- ➔ Insufficient data is collected to effectively regulate taxi fares. This must be addressed as a matter of priority.

¹⁰⁶ ESC (2005), Op. Cit., p.2

¹⁰⁷ ESC (2008b), p.190

10.6. Regulations stipulating the functions of taxis, hire cars and other forms of point-to-point transport

Taxi and hire car licence conditions contain a number of provisions that are likely to have the effect of restricting competition between taxis and hire cars, and between these kinds of vehicles and other forms of public and private transport.

10.6.1. Competition between taxis and hire cars

Features of regulation

As noted in chapter 4, a number of regulatory features distinguish hire cars from taxis. In addition, a range of regulations that apply to taxis do not apply to hire cars, including common carrier obligations, availability requirements, livery and branding standards, mandatory affiliation with a network and dispatch and hiring preferences for disabled passengers.

Moreover, vehicles cannot undertake particular sorts of hirings that would move their regulatory status from taxi or hire car services to bus services. For example, if a vehicle has capacity for more than 10 passengers, it is classified as a bus and is regulated accordingly (including in some instances being precluded from offering some services that have been contracted exclusively to a particular bus company). In addition, if taxis or hire cars run to a fixed route and passengers share the ride, this can be classified as a bus route and bus regulation and restrictions again apply. This makes it very difficult for taxis and hire cars to offer more flexible transport solutions in Melbourne's outer suburbs and regional areas where bus services may not be economic. It may also preclude them from offering other innovative services.

Themes raised in submissions

Submissions that raised the issue of competition between taxis and hire cars generally did this within the context of hire car 'touting' at Melbourne Airport. The inquiry has received few submissions seeking increased competition between taxis and hire cars.

One submission did argue that there are unjustifiable restrictions on hire cars that prevent more effective competition with taxis. The ESC argues that by preventing hire cars from having a meter in their vehicles, this may lessen their ability to compete with taxis as straight fare comparisons are not available:

At present, hire cars are prohibited from having a fixed fare schedule – for example, a price per kilometre, or per passenger. They must agree a total fixed fee for the journey before it commences. This constraint to the pricing of hire car services is highly unusual, and appears to be directed to limiting their effectiveness as competitors to taxis by preventing customers from being able to make clear price comparisons. It is recommended that this constraint be removed, thereby enabling hire cars to pursue pricing strategies that most effectively enable them to compete with each other and with taxi and other passenger services.¹⁰⁸

The VTD submission argues that the primary rationale for regulating the hire car sector is to:

...protect consumers (e.g. probity of licence holders and vehicle quality) and to maintain an appropriate balance between the taxi and hire car markets.¹⁰⁹

Further, the VTD argues that as taxis are highly regulated, similar services such as hire cars should also be regulated to ensure that "taxi services are not duplicated by services that fall outside the regulatory framework... it may be appropriate to consider a similar, but lighter, accreditation scheme for hire car operators".¹¹⁰

The VTD also notes an odd feature of the requirement that vehicles, when new, have to be subject to the luxury car tax threshold. This feature is that the strong Australian dollar has made luxury vehicles cheaper, but has pushed the value of these vehicles below the threshold – meaning that a vehicle that previously qualified no longer qualifies.

Analysis in previous reviews

In 1999, KPMG reviewed the restrictions on competition that were perceived to exist through regulation. The KPMG analysis suggested that there were two main restrictions on hire car licences compared to taxi-cabs:

- Age and other vehicle restrictions
- The requirement that hire cars must be pre-booked.

¹⁰⁸ ESC (2008b), Op. Cit., p.15

¹⁰⁹ VTD, Op. Cit., p.40

¹¹⁰ Ibid.

KPMG argued that these restrictions reflect the notion that hire cars serve a particular market segment and should not encroach too far on markets supplied by taxis. If these restrictions are removed, there will be little difference between hire cars and taxis, apart from the fact that taxis can be hired on demand, are subject to fare control and have a distinctive livery.

It was further argued that there are some requirements on taxis that prevent them from better competing with hire cars. The requirement that taxis be hired on demand – with certain limited exceptions – was said to mean that taxi-cab operators cannot effectively differentiate their vehicles by offering a higher quality, higher fare service.

Since 1999, the introduction of premium taxi services has addressed this issue to some extent. As noted in this report, for an additional fee of \$11 (\$10 plus GST) a better quality of vehicle can be ordered through the major Melbourne NSPs.

KPMG also argued that there were no economic reasons to enforce higher standards of vehicles on hire cars:

“If taxi-cab standards are considered the minimum suitable to ensure the safety of passengers and drivers, then we do not see any reason for higher vehicle standards for hire-cars to be enforced.”¹¹¹

The McQuillen review did not explicitly focus on the differentiation between taxis and hire cars, but supported open entry of vehicles at a ‘market price’. This approach was adopted by the Victorian Government and remains in metropolitan areas.¹¹²

Effects of the regulations on competition and performance

Hire cars have traditionally operated at the premium end of the commercial passenger vehicle market, providing a superior level of service at a higher price than taxis, particularly in tourism and business sectors. Operators rely on customer retention and personal repeat business, placing greater importance on the reputation of their company to attract clientele than in the taxi sector.

In recent years, hire cars have increasingly competed in the pre-booked ‘ready to go’ market dominated by taxis. This has been attributed to the expansion of issued licences, stemming from the reduction in supply restrictions, and more competitive hiring charges. Dissatisfaction with taxi services has also played part. Nonetheless, there are still some significant barriers remaining to further competition: entry costs into the hire car industry are over \$100,000 (for non-hybrid vehicles); it is more difficult to run fleets of vehicles; and part of the market (MPTP users) cannot be served by hire cars.

It is apparent that there is potentially a much greater role for competition between taxis and hire cars. Observation of markets overseas indicates that in markets where there are fewer restrictions on licences and vehicles, hire car services have flourished.

- In New York, there are entry limits on taxis but no limits on the numbers of livery vehicles. The inquiry’s understanding is that there are some 40,400 private hire vehicles operating in New York City (incorporating the five boroughs) – more than four times the number of yellow taxis.¹¹³
- In London, there are over 50,000 registered minicabs, against just over 23,000 ‘black cabs’ (which are also not limited in number).

A further counterpoint here is Dublin: when entry into the taxi market was deregulated in 2000, there was a significant shift out of livery vehicles/hire cars (which were previously unregulated) and into taxis, meaning that the total number of vehicles per capita is similar across Dublin, London and New York.¹¹⁴

It is difficult to determine how much Victoria’s regulations on hire cars cost the community. It requires an assessment of how the hire car and taxi markets might respond to amendments in the current regulations, which requires a degree of conjecture. However, hire cars could be expected to play a greater role in:

- Keeping taxi fares down, at least for pre-booked taxi services
- Meeting peak demand for point-to-point transport
- Providing innovative services that focus on particular market niches.

¹¹¹ KPMG (1999), Op. Cit., p.100

¹¹² In May 2002, the Minister for Transport announced a package of taxi and hire car reforms following the National Competition Policy Review of these industries. Legislation was amended in 2002 to reduce barriers to obtaining hire car licences, whereby applicants no longer had to demonstrate the issue of a licence was ‘in the public interest’ but had to pay a substantial licence fee

¹¹³ In December 2011, New York announced plans to issue 18,000 permits over three years that will allow livery vehicles to pick up street hails in the outer boroughs and in upper Manhattan. See case study in chapter 14 for further details on these plans

¹¹⁴ See Goodbody (2009), Op. Cit, p.13: “Whereas in 1991 there were some 450 hackneys licensed in the Dublin area, this had increased to 3,500 by the year 2000.” By 2011 the number of hackneys had fallen to 676: see www.nationaltransport.ie/downloads/taxi-reg/economic-review-spsv-industry.pdf, accessed March 2012. p. 32

Of course, appropriating these benefits will depend on the nature of entry restrictions that remain for taxis and hire cars.

In any event, the inquiry observes that any beneficial aspects of these regulations have never been formally made out or subject to independent review. From a review of the history of hire car regulation, it appears that the primary goal of many of the hire car regulations are to restrict their ability to compete with taxis; in particular, that they should be a superior service charging 'appreciably' higher fares than taxis.¹¹⁵

The inquiry's view is that regulations on hire cars, particularly vehicle restrictions, have created unnecessary costs without offsetting benefits and that a new set of regulatory objectives needs to be determined.

This does not mean that there are no legitimate grounds for distinguishing between hire cars and taxis in regulation. A distinction may be made on the basis that one type of vehicle services the pre-booked market only, while the other is permitted to do rank and hail work, and that a different balance of competition and regulation may be needed to deliver safe, high quality services in both market segments. In particular, the inquiry's view is that there are better grounds for relying on competition to deliver higher service quality in the pre-booked market, as operators in this market rely on repeat business to be successful. In contrast, the operation of taxi ranks and 'hailing' means that competitive pressure will likely be less successful in delivering high quality services.

Inquiry finding

- Regulation of hire car vehicle standards unnecessarily restricts competition between hire cars and taxis.

10.6.2. Competition between small commercial vehicles and public transport

Regulations also limit competition between taxis and hire cars versus other forms of transport. As set out in chapter 4 and section 10.1.2, the inquiry's view is that public transport is not likely to be a strong substitute for taxi and hire cars services. This suggests that these regulations might impose costs on the community but offer few benefits in return: removing the regulations will not necessarily enhance competition between modes, but will improve the efficiency of the transport system more generally.

For example, if regulation prevents a successful commercial service running a fixed route between two train stations that are currently not served by a bus route, or running a taxi service using a vehicle with a larger seating capacity than 12 occupants, then there is a risk that the community loses out on a service for no gain. Indeed, to the extent that the services offered would be complementary to public transport then the result is less use of public transport as well.

If regulation is genuinely required then it should not prevent, to the greatest extent possible, these market niches from being filled by taxis and hire cars. Currently, the key regulations preventing this from occurring are that:

- Taxis operating on a set or fixed route are considered to be acting as a bus and are therefore captured by regulations requiring them to have a service contract with the Victorian Government.
- Taxis cannot operate using a set fare.¹¹⁶

These restrictions are further analysed in chapters 19 and 20.

Inquiry finding

- Taxis and hire cars appear to be prevented from living up to their potential by restrictions on competition between the two modes as well as with other modes, such as buses.

¹¹⁵ See Transport Regulation Board (1983), *Review of Hire Car and Related Services*, 20 April 1983

¹¹⁶ Case studies, comments and potential new service options in relation to taxi-bus services are discussed in section 19.4

10.7. Vehicle regulations

Taxis and hire cars are required to meet a number of vehicle and safety requirements. These regulations have a significant impact on industry performance. In general, these kinds of regulations can be better supported by 'market failures' than can other forms of regulation discussed in this chapter. Nonetheless, the inquiry has focused on ensuring the efficacy and efficiency of vehicle and safety regulations.

In this section, the inquiry outlines what it has heard about vehicles, including the scope of regulations and their impact on the performance of the taxi and hire car industries.

Safety regulations are further discussed in chapter 17.

10.7.1. Vehicle regulations

Section 162 of the *Transport (Compliance and Miscellaneous) Act 1983* allows for the drafting of regulations that cover 'the design and construction of commercial passenger vehicles so as to secure the safety comfort and convenience of drivers, passengers and the public'.

Taxi vehicle regulations are set out in the *Transport (Taxi-Cabs) Regulations 2005*. Regulation 12 calls up a set of specifications for taxi vehicles that must be published by the licensing authority in the Victorian Government Gazette. Gazetted vehicle standards cover a wide range of matters, as shown in Table 10.6.

Table 10.6 Gazetted vehicle standards for taxi vehicles

Occupant capacity	Access
Vehicle interiors, including seat belts	Signs, symbols, notices labels and fittings
Driver identification	Emergency warning devices and security systems
Taximeters, radios and dispatchers	Outside signage
Wheelchair accommodation	Driver protection screens
Livery, including that taxis must be painted 'Victorian Taxi Yellow'	Advertisements (which are prohibited)
Luggage space	Taxi age limits
Limits on the number of EFTPOS terminals	

Those vehicle standards that impose material costs and were not otherwise covered in Australian Design Rules were subject to a Regulatory Impact Statement (RIS) in 2008.¹¹⁷

The inquiry comments on the effects of two major regulations: vehicle livery and restrictions on advertising. Taxi age limits are discussed in chapter 17.

Livery

Section 19 of the Government-gazetted *Determination for Specifications of Taxi-Cabs* sets out that all taxis must be painted 'Victorian Taxi Yellow'.¹¹⁸

Vehicle livery was a significant issue of concern raised with inquiry, especially in relation to taxi services in regional Victoria. Some specific considerations relating to country areas are discussed in chapter 16.

The RIS prepared for the *Transport (Taxi-Cabs) Regulations 2005* provides useful information on the costs of this regulation for operators and, ultimately, consumers. It suggested the cost of re-spraying vehicles was \$3,250 per vehicle. Advertisements in 'Taxi Talk' magazine suggest that the cost could be as low as \$1,300,¹¹⁹ although some taxi operators have told the inquiry this price is for a much lower quality service.

The inquiry has also been advised that the required yellow is no longer a manufacturer standard colour for the most popular taxi vehicle, the Ford Falcon, meaning that all taxi vehicles now have to be re-sprayed before commencing operation.

On the evidence of benefit from the standardised colour, the RIS suggested that three kinds of benefit could be postulated, none of which could be properly measured:

- Ease of location of vehicles by consumers (as few or no other vehicles are of the same colour as Victorian Taxi Yellow) and visibility for other drivers
- As an image or branding device associated with quality services
- As a marketing image for Victoria.

¹¹⁷ Economic Associates (April 2008), *Transport (Taxi-Cabs) (Amendment) Regulations 2008*, Regulatory Impact Statement

¹¹⁸ Victorian Government Gazette, 24 May 2007

¹¹⁹ www.taxitalk.com.au/Magazines/taxi%20talk%20july%20website.pdf, accessed 14 February 2012

The major detriment aside from cost is noted in the RIS: that it limits the ability of different taxi operators or networks from differentiating their services. There are provisions for marking network brands on vehicles in designated areas (on domes and vehicle doors) but these are not easy to see from a distance. Essentially, the regulation promotes a uniform Victorian taxi 'brand' but reduces the effectiveness of branding of taxi networks (or operators).

In the RIS, it was argued that the detriments from the regulation are not severe:

Only 40% of hires are made at the rank or otherwise by hailing on street. Some of those hirers might not have the opportunity in effect – due for example to pressure of demand at the rank or the risk that a preferred taxi might not eventuate – to choose their preferred operator even were networks to have freedom in badging.¹²⁰

The inquiry's information suggests that the number of rank and hail hires is much higher than 40 per cent of all trips: it is more like 70 per cent of trips in the metropolitan area. Nonetheless, it is correct that in certain situations, hirers will not have much competitive choice. However, this does not seem to be a good reason to support regulations that make it even harder for consumers to choose between taxi brands. Brand perception might also be important to consumers' choice of booked taxis: the current situation is that many consumers are confused by taxi brands in the market and this 'sameness' also extends to the fares that taxi networks and operators are allowed to charge. Evidence of this was provided to the inquiry by the DOT, which reports that customer satisfaction survey data on the brands that customers use are skewed towards 'Yellow Cabs'. To overcome this problem, the DOT has had to specifically insert a preamble into the survey (informing respondents that 'although taxis are now coloured the same, there are a number of different taxi companies operating in Melbourne') and a specific question to check respondents answers ('INTERVIEWER NOTE: If respondent says 'Yellow Cabs' say "Are you sure it was the company called 'Yellow Cabs', not just because the colour is yellow?").¹²¹

Analysis of other markets in Australia and around the world suggests that different livery is widely used to differentiate taxi services and is an important element of competition. In particular, in those markets where different livery is allowed, it is not the case that all vehicles are simply painted the cheapest colour (white). This suggests that taxi companies place some value on different colours: the value of differentiation must at least exceed this additional cost. One example is New Zealand, where a company 'Green Cabs' promotes its services using green livery to go with its hybrid vehicles, publicising its brand as an environmentally conscious service provider.¹²²

A further reason to be concerned about the costs of standard livery is the limited degree of competition between Melbourne NSPs. Compared to the situation in 1994 when this regulation was introduced, market concentration is much greater and numerous concerns have been expressed to the inquiry about the competitiveness of the major NSPs.¹²³ In this light, regulations that make it more difficult for a new entrant or existing firm to differentiate their services must be subject to considerable scrutiny.

The inquiry also notes that, while the uniform livery may have had a positive, if relatively short-lived, impact on the taxi industry's public image, it has not led to any longer term, substantive improvement in services. Nor has it contributed to addressing the industry's longstanding structural weaknesses.

Inquiry finding

→ The costs of livery restrictions are likely to have been understated. Competition between taxi companies should be encouraged to the maximum extent feasible, and livery restrictions prevent this.

120 Economic Associates (April 2008), Op. Cit.

121 Based on information provided to the Taxi Industry Inquiry by the Department of Transport, by email dated 24 February 2012

122 www.greencabs.co.nz, accessed 24 February 2012. "Green Cabs is New Zealand's environmentally friendly taxi company. We run a fleet of hybrid cabs in Auckland, Wellington, Christchurch and Queenstown"

123 Chapter 11 examines this issue in greater detail

Advertisements

The policy to remove advertising on taxis was introduced in the 1994 reforms mentioned above, with the aim of promoting a clean, professional image for Victoria's taxis.¹²⁴ Advertising was not completely phased out until 2005.

A number of operators have urged the inquiry to recommend that some limited advertising be allowed on their vehicles:

We as operators receive little benefit promoting credit card companies and taxi networks. Taxi operators have been discriminated against by not allowing the operator the opportunity of receiving revenue from media sources that could advertise on the taxi. All other forms of public transport including trams and buses are afforded the opportunity of advertising on their vehicles.¹²⁵

[Reintroduction of advertising] will assist operators with costs and diminish the need for fare increases.¹²⁶

Again, this issue was raised in a number of country areas, where operator viability is of major concern. The 2006 Country Taxi Review found that operators in small country towns could earn approximately \$1,000 per year in revenue from advertising on taxi vehicles. The Department of Infrastructure did not support the review's recommendation for a review of the advertising policy, citing the need to maintain 'a clean and professional image'.

The inquiry considers that the advertising restrictions are costly for taxi operators. The costs (revenue foregone) are not large. But there is scant evidence that there are significant benefits from this regulation. Indeed, in the two other cities with iconic taxis, New York and London, both allow advertising in some form. Nor is it obvious why there is a requirement for taxis not to carry advertising but no such requirement placed on public transport.

Inquiry finding

➔ These regulations add cost to the industry and reduce its competitiveness.

¹²⁴ Correspondence from Ms Marnie Williams, Acting General Manager, Victorian Taxi Directorate

¹²⁵ Taxi-Link, Submission to the Taxi Industry Inquiry, SS254a, p. 1

¹²⁶ John Vlassopoulos, Submission to the Taxi Industry Inquiry, SS338, p. 3

Chapter 11.

11. Networks

Key messages

- The role of Network Service Providers (NSPs) is a critical area that must be addressed in order to deliver sustainable taxi reform.
- There is considerable consumer dissatisfaction with the quality, reliability and accountability of booking services provided by NSPs.
- Government intervention in this market in the form of the taxi industry accreditation scheme has failed to result in measurable improvements for taxi consumers and the objectives of accreditation have not been achieved.
- There is confusion as to the role of NSPs and the Government in ensuring service quality and scope to better clarify roles.
- There is scope to reduce regulatory burdens on networks by rationalising existing regulation affecting them whilst at the same time clearly indicating areas of responsibility.
- The current high barriers to entry in becoming a new NSP prevent new competitors from emerging and deliver minimal benefit to taxi users or taxi operators.
- The current fee structure for affiliating with NSPs is inefficient and is a result of the imbalance of bargaining power between suppliers (NSPs) and consumers (taxi operators) in this market.
- Introducing more competition to the market for taxi booking services is likely to increase innovation, encourage better marketing of taxis as a transport option and deliver higher quality and greater choice for consumers.
- Taxi operators will also benefit from increased competition in the market for network services by having greater bargaining power to obtain improved choice and better value for money.

In Victoria, the centralised booking and dispatch of taxis is delivered by companies known as network service providers (NSPs).

While customers may hail taxis directly on the street or obtain a cab by waiting at a rank, they can also book a taxi by contacting an NSP.

The inquiry has heard from many taxi users and industry participants about their concerns and experiences regarding NSPs. The main themes raised with the inquiry are dissatisfaction with the reliability and accountability of booking services provided by Melbourne NSPs and the effects of current market dominance of the larger NSPs. Customers consider that NSPs lack accountability for service standards and many taxi operators and drivers perceive that NSPs deliver poor value for money for the services they provide to the industry.

This chapter sets out the concerns raised with the inquiry about NSPs and pre-booked taxi services. This chapter analyses criticisms that networks lack accountability for the services they provide and identifies areas where failures in regulation have led to a market typified by weak competition and unsatisfactory levels of customer service. Finally, this chapter considers options for reform to address these problems in Victoria, as well as reforms undertaken in other jurisdictions.

11.1. Introduction

With over 5,000 taxis operating across Victoria, NSPs have for many years provided the link between drivers of taxis and customers wishing to book a taxi. NSPs bring many small taxi operators together with one single point of contact for customers. NSPs coordinate communications within an otherwise de-centralised industry by accepting bookings from customers and transmitting booking details to a data terminal installed in taxis.

Under legislation that has been in effect for many years, all taxis are required to be affiliated with an NSP. This is known as mandatory affiliation. While not a stated objective of the legislation, the inquiry understands that this affiliation requirement is in place to facilitate universal access for customers booking taxis and to provide a mechanism to track vehicles to ensure the safety of passengers and drivers.

The taxi industry accreditation scheme that was introduced in 2007 and applies to NSPs has not achieved its objective to provide a safe, efficient and reliable taxi service with regard to NSPs.

In recent years, NSPs have increased their participation in the industry by providing ancillary services to operators and drivers including finance, electronic payment processing, taxi licence broking and driver training. In Melbourne, progressive mergers and acquisitions of small to medium sized NSPs have led to increasing concentration of ownership of NSPs. Today, while there are six accredited NSPs for the Melbourne metropolitan area, an effective duopoly exists with three NSPs being subsidiaries of Cabcharge (Black Cabs, Arrow Taxis and North Suburban Taxis) and Silver Top Taxis and West Suburban Taxis sharing common ownership.

The necessity for mandatory NSP affiliation is becoming less clear, particularly as customers are increasingly embracing alternative means of booking taxi services due to the emergence of informal ('secondary') networks and the growing use of smartphone applications. In addition, evolving technologies offer new and possibly cheaper alternatives for fleet tracking to ensure the safety of passengers and drivers. The inquiry has also found that booking services represent a smaller share of total trips than had commonly been assumed.

As noted throughout this report, the inquiry considers that the structure of the industry is a critical area that must be addressed in order to deliver sustainable taxi reform. In particular, measures to promote a move to a more competitive environment for booking services and to simplify and clarify the responsibilities and roles of industry participants in the delivery of taxi services for passengers are likely to deliver significant consumer benefits.

11.1.1. Consumer research

The inquiry's commissioned consumer research conducted by Ipsos Social Research Institute found that ease of booking services is a key attribute in relation to satisfaction with taxi services. Taxi users reported, "that there are considerable limitations with regards to existing phone booking services", with the main drawbacks being the wait times involved in speaking with an operator and in the taxi arriving after placing the booking.¹

Many participants found it very frustrating that the operator does not give an estimated time of arrival for the taxi, but instead always states that it will be 'the next available' cab. Several users said that they frequently called the phone booking service back when the taxi had not arrived after a length of time and are again informed it will be 'the next available', adding further to their frustration. While most taxi users acknowledged that waits are sometimes

inevitable, there was almost universal agreement that operators should inform customers if there will be a prolonged wait during busy times, with one regular taxi user commenting: "What we need is greater transparency of wait times".²

Another issue encountered by many participants in relation to booking taxis was the taxi failing to arrive at all. For some less regular taxi users, such experiences have led to them to question the convenience of booking taxis and to preferring other forms of transport they consider to be more reliable. For more regular taxi users, it has led them to preferring to hail a taxi or use a rank (unless travelling from home) as "these strategies, when they work well, are seen to involve less waiting and uncertainty than phone booking".³

These concerns are reflected in the quarterly taxi customer satisfaction research conducted by the Department of Transport (DOT). Satisfaction was reasonable in relation to aspects of the taxi booking service, including ease of using the service (77.4 on a 100 point scale), staff helpfulness and knowledge (77.1) and the range of options for booking (73.4). However, lower levels of satisfaction were recorded for wait time on Fridays and weekends (55.9), availability of information if there are problems with a booking (51.3) and wait time during a major event (45.4).⁴

Submissions and consultations

Taxi users and drivers have expressed concerns about the performance of primary NSPs and the effects of the market dominance of the largest NSPs.

Performance of booking services

The inquiry has heard repeatedly from taxi users that they are dissatisfied with the phone booking and dispatch services provided by the primary metropolitan NSPs. Their concerns relate to:

- Unreliable services – with long wait times or taxis not turning up at all
- A lack of accountability for services – with NSPs perceived as unwilling to advise customers where their booked taxi is or how long it may take to arrive and disinterested in pursuing bookings that are not honoured
- Difficulties in contacting booking services via telephone during particularly busy periods – with customers waiting long periods of time to speak to an operator or having their calls go unanswered.

¹ Ipsos Social Research Institute (2012), Op. Cit., p.31

² Ibid., p.32

³ Ibid., p.32

⁴ Wallis Consulting Group P/L (July 2011), *Customer Satisfaction Monitor Survey Metropolitan Taxis Report, April-June 2011*, Department of Transport, Melbourne, Victoria, p.14

Many taxi users have difficulty in understanding why pre-booking a taxi – or having a regular booking – does not provide any ‘guarantee’ that it will arrive on time or at all, summed up in one taxi user’s comments:

*“If a client who makes a booking in advance is not given priority in practical terms, then I can see no reason why a passenger should bother making such a booking and the same applies to so-called ‘priority customers’. The automated menu on the Yellow Cabs [sic] number says that people can make bookings in advance, but I think this information represents fraudulent and misleading information to the general public.”*⁵

Taxi users are also frustrated by what they perceive as a lack of accountability when taxis fail to turn up. As one user notes:

*“Today it seems there is no penalty for drivers not turning up and certainly no accountability. Everyone is too scared to impose a penalty so service suffers.”*⁶

Of particular concern to the inquiry are the detrimental impacts of an unreliable booking service on people with a disability. Manningham City Council provided an example in its submission:

*“Two individuals both reported separately that they have booked taxis hours in advance, only for it not to arrive. When they called the taxi company, the response from the operator on both occasions was that it was entirely up to the driver whether they wanted to take the fare or not. A disability youth service provider reported that a client pre-booked a regular pick up time six months in advance and that five out of 10 times there are issues with her being late to the program. This causes significant stress for the client with the disability, their family and also the service provider who has to delay their program commencement time.”*⁷

As discussed in greater detail in chapter 15, people with a disability, their families and advocates told the inquiry that, despite having regular bookings or booking several hours ahead, taxis frequently arrive late, fail to turn up altogether or are cancelled at the last minute. This unreliability has a significant impact on people’s lives, including safety fears if left waiting in public places, the inability to reach important destinations (such as work or medical appointments) on time, uncertainty in being able to meet commitments and the flow-on impact on families, carers, service providers and employers.

A number of taxi drivers also report dissatisfaction with the booking services. Drivers have told the inquiry that they lose fares – and incur customer anger – through being mis-directed to pick-up locations or being dispatched to an address a long time after the booking has been placed. Drivers are also sympathetic to customer concerns about booking services as they are usually the first to hear the complaint when the customer gets in the taxi. One driver comments:

*“... [F]or some time ... 13CABS and ... Silver Top Taxis have had absolutely no incentive to make sure a customer gets connected with the nearest available driver/driver within their suburb boundary. I guess getting \$650 per month from each mobile (moving taxi), with no strings attached, is simply too great a temptation not to ensure there are enough staff to answer phones and dispatch taxis as appropriate. I know there is regulation in place to say, if a call is taken, a taxi is required to be dispatched. This has caused many a customer a situation on Saturday night (not late either) of simply not being able to get through to the NSP. The phone will ring out, or never be connected. No connection, no taxi required.”*⁸

Competition and mandatory affiliation

A number of taxi operators see the current market dominance of the two major NSPs in Melbourne as restricting their operating options and choices. These operators also believe that mandatory affiliation further constrains their ability to obtain better value ancillary services from other sources.

These and other respondents to the inquiry consider that there is little or no genuine competition between the largest NSPs and that they exert too much control over the industry through: their cross-ownership of licences, fleets and electronic payment systems; their brokering of vehicle sales and taxi licensing; and their perceived close relationships with Cabcharge.

⁵ Irene Goldwasser, Submission to the Taxi Industry Inquiry, SS02, p.3

⁶ Brenda Rawlins, Comment on Taxi Industry Inquiry Facebook page, 27 March 2012

⁷ Manningham City Council, Submission to the Taxi Industry Inquiry, SS102, p.9

⁸ Anonymous, Email received by the Taxi Industry Inquiry, 28 April 2011

Some respondents argue that the market concentration of recent years has also had a negative effect on the quality of taxi services more broadly, as reflected in the comments from one operator/driver:

In the last eight years, we have gone from multiple smaller companies to two companies running the taxi industry ... this has impacted the integrity of the industry: more companies meant more competition which then in turn meant customer satisfaction.⁹

Others argue that, as NSPs receive no direct benefit or income from their booking and dispatch services (and have their income guaranteed by mandatory affiliation), they have little incentive to improve service quality. CabFare's submission to the inquiry reflects these concerns:

The desire to improve standards and to require taxi operators to be affiliated with a NSP network, when combined with the concentration of NSP ownership, has encouraged an environment of anticompetitive behaviour.¹⁰

Additional concerns relating to competition and affiliation raised with the inquiry include:

- The bundling of services by the large NSPs (such as car financing and in-car technology), which means that operators must pay for services they perceive they do not require and makes it difficult for new entrants in the NSP market to gain a critical mass of affiliated taxis
- The costs incurred by operators if they wish to move from one NSP to another.

Concerns about market concentration and mandatory affiliation are not shared by the Victorian Taxi Association (VTA), which argues that NSPs operate in a competitive environment that leaves room for other business models, such as secondary networks. The VTA argues that the number of NSPs reflects the reality of commercial processes and the size of the market in which they are operating, and that their investment in subsidiary businesses benefits the industry by providing more efficient and industry specific services.

A key reason that Victorian taxis are better equipped than those in other jurisdictions is because Victoria's NSPs are large enough to invest in real goods and services that benefit the customer.¹¹

More broadly, the VTA argues that the taxi industry faces a high level of internal and external competition at all levels: drivers have to compete with other drivers for fares; operators face competition for licence assignments; and the industry faces external competition from hire cars, community transport and providers of long term car parking at Melbourne Airport.

The Essential Services Commission, the Department of Treasury and Finance (DTF) and others point out that while a move to remove mandatory affiliation (or to introduce greater contestability into the NSP market) may have benefits in terms of service innovation and downward pressure on fares, it will need to be accompanied by reforms to ensure that safety and universal access objectives are met. DTF also notes:

Recent developments in economics, particularly when combined with modern communications, spatial referencing and information technology, may provide the ideas and the tools to help develop efficient markets in the sector.¹²

Engaging the industry on networks

In November 2011, the inquiry released a discussion paper on networks titled *Improving taxi booking services for customers, drivers and operators*. The inquiry received only three submissions in response to this paper, two of which were confidential.

In contrast, the issues of mandatory affiliation and the performance of NSPs has been the subject of considerable debate through the inquiry's social media channels. One Facebook contributor notes:

The taxi booking companies are a racket. They add NO value. Ever since the early eighties the taxis have been forced to operate under radio control from an approved depot. Can ANYONE tell me why this licence condition was introduced? It wasn't for the benefit of the owners and it sure as hellfire wasn't for the benefit of the poor driver. The booking companies CANNOT guarantee a service level. They should be abolished.¹³

The inquiry initiated conversations with the VTA and the major NSPs in Melbourne on the issues raised in its discussion paper. These conversations were helpful in developing the inquiry's proposals for reform.

9 Anonymous submission to the Taxi Industry Inquiry, SS108

10 CabFare, Submission to the Taxi Industry Inquiry, SS92, p.11

11 VTA, Submission to the Taxi Industry Inquiry, SS60, p.13

12 Department of Treasury and Finance, Submission to the Taxi Industry Inquiry, SS179, p.5

13 Kevin V. Russell, comment on Taxi Industry Inquiry Facebook page, 25 March 2012

11.2. What are NSPs?

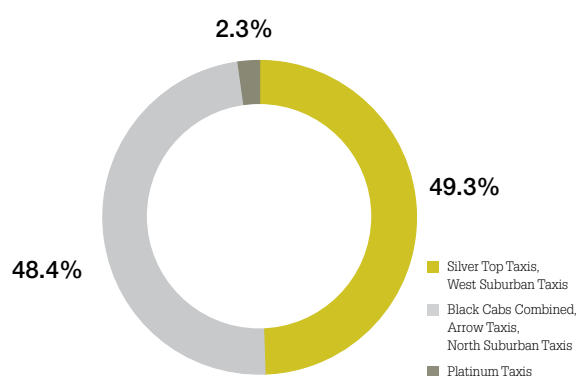
In Victoria, the centralised booking and dispatch of taxi-cabs is delivered by NSPs.¹⁴ NSPs have established brands, are permitted to display their trademark or name on taxi cabs and, for most customers, are the 'shop front' for taxi services. However, NSPs provide only a centralised dispatch service and do not themselves directly deliver taxi services. As set out in chapter 4, taxi operators own the vehicle and must ensure that the vehicle is fit for service, while taxi drivers (who typically bail the vehicle from operators) provide the face-to-face transport service to customers.

11.2.1. Primary NSPs

Across Victoria, there are more than 90 accredited primary NSPs.¹⁵ NSPs vary greatly in operation depending on the size of their fleet. In some instances, an NSP may provide services to just one vehicle and is a simple operation; in other instances, such as in Melbourne, an NSP may provide a sophisticated communication centre that includes multiple call operators linked to more than 2,000 vehicles. As mentioned earlier in chapter 7 of this report NSPs must be accredited by the Victorian Taxi Directorate (VTD).

While there are six accredited NSPs for the metropolitan zone, an effective duopoly exists with three NSPs being subsidiaries of Cabcharge (Black Cabs, Arrow and North Suburban) and Silver Top Taxis and West Suburban Taxis sharing common ownership. Platinum Taxis, a relatively new entrant, holds only a small proportion of the market with just under 100 taxis affiliated with its network. Figure 11.1 shows the level of market concentration:

Figure 11.1 NSP market share



Source: VTD supplied data

The outer suburban zone is serviced by two primary NSPs (Frankston Radio Cabs and Dandenong Taxis); these NSPs operate predominantly within their respective suburbs. Each of the three urban zones has one NSP (Geelong Taxi Network, Taxis Associated of Bendigo and Ballarat Taxis Cooperative). The remaining country regions have less than 40 taxis and generally have one NSP in each region, apart from a few notable exceptions such as Mildura, Swan Hill, Shepparton and Bairnsdale where there are two in each area.

11.2.2. The role of Primary NSPs

While traditionally providing booking and dispatch services, the role of the primary NSPs has extended in recent years to encompass a range of additional services to taxi operators and drivers.

Booking and dispatch services

As noted above, and discussed in more detail below, the licence conditions for Melbourne metropolitan taxis require an operator to be affiliated with an NSP. Operators affiliated with a particular NSP install a mobile data terminal in their vehicle that allows them to receive jobs booked with the NSP. NSPs also agree to monitor the taxi while it is logged on to the network to help to protect the safety of the driver.

Operator obligations to the NSP

The agreements between operators and NSPs vary between networks. However, in general, the obligations of operators include:

- Obey the dispatch rules of the network
- Ensure their vehicle(s) is maintained in good order
- Present the vehicle(s) at the NSP when required to do so
- Ensure that drivers of the vehicle(s) comply with the NSP rules
- Market and actively promote the NSP
- Authorise the NSP to collect information as the NSP deems relevant
- Ensure that the vehicle displays the branding of the NSP as specified.

The contents of these agreements are not regulated, other than for an overarching requirement that NSPs must deal with operators and drivers fairly and honestly.¹⁶

¹⁴ Section 130A of the *Transport (Compliance and Miscellaneous) Act 1983* defines what is meant by a taxi-cab network service

¹⁵ Data provided to the Taxi Industry Inquiry by the VTD

¹⁶ *Transport (Compliance and Miscellaneous) Act 1983*, section 133C; Business and Service Standards, part 3 (19)

Driver obligations to the NSP

NSPs require drivers to sign a network agreement prior to being able to log into the mobile data terminal and to abide by a code of conduct while operating on the network. In some cases, the drivers must undertake a training program before being provided access to the network. The NSP code of conduct or rules for drivers include obligations for the driver to:

- Wear the uniform of the NSP
- Obey the dispatch rules of the network
- Behave in a courteous way to customers
- Ensure the vehicle is maintained in a clean and presentable condition
- Accept all electronic payments forms and vouchers authorised by the NSP
- Attend training as required by the NSP.

NSP rules typically allow for discipline of drivers who are found in breach of the rules. Sanctions may be applied, including requiring the driver to undergo re-training or blocking the driver from the network for a period of time. Persistent breaches can result in the driver being barred from the network.

Financial penalties were traditionally used as sanctions against drivers for breaching depot rules. However, the accreditation scheme introduced restrictions on their use that capped fines at \$100 and required NSPs to demonstrate that these fines are lawful.¹⁷ In March 2009, the VTD issued an improvement notice to West Suburban Taxis requiring removal of all references to financial penalties from its relevant documents. West Suburban Taxis applied for the decision to be reviewed by the Victorian Civil and Administrative Tribunal (VCAT) and the decision of the VTD was set aside.¹⁸

Despite the decision, NSPs have claimed that they are now powerless to sanction drivers and are not able to issue fines to drivers and argue that the enforcement of quality standards are now the role of the VTD.

In handing down the VCAT decision in the case above, the tribunal member noted:

It is clear from the Second Reading Speech that it was Parliament's intention that taxi depots (network service providers) continue to perform the function of disciplining taxi driver subject to the standards set by the Minister.¹⁹

It is clear that is the Minister's intention that the disciplinary function performed by network service providers includes the ability to impose financial penalties as part of the range of sanctions available.²⁰

The inquiry understands that NSPs now seldom use financial penalties to discipline drivers although many NSP driver handbooks continue to refer to these penalties.

Ancillary services

In addition to their role in taking bookings and dispatching them to drivers, primary NSPs offer a range of ancillary services to taxi operators and drivers. The metropolitan NSPs are known to offer brokerage services for taxi licences, disburse electronic fare revenue between drivers and operators, run taxi driver training schools and own vehicle fit-out and repair shops. Some offer insurance and finance on vehicles, licences and assignments. The primary NSP Black Cabs also provides electronic payment systems through its parent company, Cabcharge.

Emergency warning and GPS tracking

As part of their legislative obligations, NSPs must provide a system to track taxis within their fleet to provide for the safety of the driver and operator. Currently, this system works by maintaining a constant GPS link between the NSP control centre and the mobile data terminal contained in the taxi vehicle. The emergency warning system activated by the driver through a duress switch located out of sight of passengers. The system notifies the call centre and provides an open radio channel allowing audio from the vehicle to be listened to or recorded. The call centre operator can then assess the situation and notify police or other taxis if required.²¹

¹⁷ *Transport (Compliance and Miscellaneous) Act 1983*, section 133C, Business and Service Standards, part 3 (21)

¹⁸ Gerard Butcher, Victorian Civil and Administrative Tribunal, Reference no. B63/2009, p.11

¹⁹ Gerard Butcher, Op. Cit., p.13

²⁰ Ibid., p.14

²¹ GPS tracking and emergency warning systems are requirements for large networks with 40 plus taxis. Smaller networks may have alternative arrangements. The operation and effectiveness of the emergency warning system is discussed further in section 17.3.2.

Electronic payment systems

Taxi licence conditions require that all vehicles in Victoria be fitted with an electronic payment system capable of processing the government taxi subsidy program known as the Multi Purpose Taxi Program (MPTP), with a small number of exceptions in the country. The only system able to process the cards associated with this program is the Cabcharge owned system. As a consequence, all Victorian taxis must be fitted with a Cabcharge EFT terminal. Electronic Payments received through this system (Cabcharge charge card or credit and debit cards) are disbursed to the operator via the NSP.²²

Vehicle fit-out and repair

Both of the dominant NSPs in Melbourne provide vehicle fit-out workshops to their affiliated operators that install and repair in-cab equipment such as mobile data terminals, EFT payment systems, meters and cameras. These workshops have exclusivity for installation and maintenance of some equipment, such as the mobile data terminal, GPS system and EFT equipment. The inquiry understands that some or all of these services may be considered necessary and form a core part of the provision of services by an NSP.

Taxi driver training

As discussed in chapter 13, people seeking to be accredited as a taxi driver in Melbourne must first complete a training package with an approved registered training organisation (RTO). Currently, four RTOs offer this training: one is owned by a large taxi operator, one is independent and two are linked to NSPs. The inquiry understands that the NSP-linked RTOs have the dominant market share of taxi driver training.²³

NSPs also offer network access training and remedial training. This training may be undertaken on a voluntary basis or be imposed on the driver under the NSP rules (such as following a complaint against a driver).

Finance and insurance

Finance for equipment or licences and business insurance for taxi operators is known to be offered by the Cabcharge-owned NSPs. These services are also offered to taxi industry participants by companies outside of the taxi industry. The inquiry understands that these services may be bundled and that taxi operators can pay for them by having regular payments deducted from their electronic revenue disbursements.

Taxi licence brokering

Designated taxi licence traders (known as brokers) provide a 'matching service' between the buyers and sellers, and assignors and assignees, of taxi licences. As discussed in chapter 10, a larger number of licences are transferred or assigned through brokers affiliated with the major primary NSPs.

Vertical integration by the primary NSPs can help promote efficiency in the industry as the NSPs are well placed to achieve economies by undertaking these extra activities. There is a concern, however, that vertical integration could also serve to entrench market power and restrict competition. To avoid this, it is important that any unwarranted restrictions between NSPs, at the horizontal level, be removed. In particular, barriers to entry and to the establishment of new NSPs need to be minimised.

11.2.3. Secondary networks and trunk radio groups

In addition to the mandatory affiliation with a primary NSP, taxi operators may belong to a secondary network. Secondary networks vary in size and complexity and are commonly characterised as a collection of experienced drivers and operators who aim to deliver a higher quality service.

A driver or operator may be a 'member' of a secondary network and can market their services directly to customers. Network members generally communicate with each other through a trunk radio installed in the taxi vehicle and use the radio to share work to meet demand when they are unable to service the customer directly themselves. Secondary networks are a more recent service offering and appear to be gaining popularity with customers, particularly in the corporate and disability sectors.

Historically, operators and drivers were unable to offer a service directly to customers before the advent of mobile phone and pager technology. In the early 1990s, advances in telecommunications enabled this physical constraint to be overcome, making it possible for a customer to contact their driver of choice at any time. The formation of secondary networks has enabled these drivers to pass jobs on to other trusted drivers to ensure service continuity and customer satisfaction during busy times or when they are off duty.

²² Taxi payment systems are discussed further in chapter 12

²³ See section 13.2.1 for further discussion on driver training and RTOs

There are nine accredited secondary networks currently operating in Melbourne and one covering Geelong and the Bellarine Peninsula. One of the largest secondary networks has approximately 300 operators who have used their own initiative to establish standards and have signed a code of conduct designed to ensure consistently high levels of service. This group differentiates itself from 'standard' taxis by providing 'premium' long wheelbase vehicles and drivers with a minimum of two years' experience. The network's code includes strict uniform rules and a strong customer service ethic, with sanctions for infractions attaching to the car (rather than the driver) –reinforcing the strong self regulatory nature of the group. The inquiry understands that sanctions imposed by secondary networks on their members usually range from time-based suspensions through to expulsion from the network. A list of the secondary networks is contained in Table 11.1.

Generally, secondary networks aim to provide high quality services to the pre-booked market. While individual drivers can participate in the rank and hail market, the group is focused primarily on maintaining and extending business with new and repeat customers. Secondary networks must also be accredited with the VTD; however, they are not permitted to provide a centralised dispatch service or display their branding on vehicles.

Table 11.1 Secondary Networks

Secondary Network	Organisation type	Operating suburb
Melbourne Network Drivers Association Inc.	Incorporated Association	Avondale Heights
Executive Drivers Association Inc.	Incorporated Association	East Cranbourne
Elite Taxis Association Inc.	Incorporated Association	Somerton
Platinum Taxis Association Incorporated	Incorporated Association	North Melbourne
Telecabs Drivers Incorporated	Incorporated Association	Scoresby
Integrity Cab Drivers Association Inc.	Incorporated Association	Heidelberg Heights
Melbourne Phone Cabs Association Inc.	Incorporated Association	Reservoir
Prestige Taxi Drivers Association Inc.	Incorporated Association	Heidelberg Heights
Premier Taxis	Unincorporated Body	Moolap (Geelong)

Source: VTD accreditation data

Secondary networks – customer choice at work

The inquiry has found high levels of satisfaction with the performance of secondary networks, with many regular taxi users commenting that these networks provide more reliable services than 'standard' taxi services. Benefits reported by secondary network taxi customers include knowing which driver is coming and when; having access to a regular and trusted driver; and being able to negotiate flat fares.

Generally, these customers report having obtained the details of a particular driver or group of drivers from a friend or colleague. They then call the driver or network whenever they need a taxi.

The consumer research conducted for the inquiry by Ipsos Social Research Institute also found that a number of taxi users attributed their positive experiences to having access to a secondary network. Ipsos reports that these users:

...overwhelmingly found that such drivers provided a far higher quality of service than the standard, and were particularly pleased with their reliability. Secondary network taxis were also seen to be of a cleaner, more comfortable standard. Further, as booking a taxi through a secondary network bypasses the need to use a booking service, passengers are usually informed when the taxi will arrive and whether or not there will be a delay ...²⁴

Organisations working with people with a disability also report 'bypassing' the primary NSPs to form relationships with regular drivers and secondary networks. For example, Blind Citizens Australia comments:

Many people who are blind or vision impaired choose to establish a direct relationship with one or two drivers, or a small network of drivers, with some members noting that this guarantees them a better quality service.²⁵

The Ipsos research identified examples where accessing taxi services "was easy and customer centred in design" and noted that most of these examples came from users accessing services through a driver they know or a secondary network. The Ipsos report concludes:

These services are seen to be comfortable, reliable and driven by professional, friendly drivers. Secondary network taxis also have benefits in terms of access in that they can be booked through direct contact with a driver, eliminating the need for booking services. This model should be considered in improving the broader taxi industry.²⁶

11.3. History of taxi networks

Taxi networks have played an integral role in forming the structure of the taxi industry in Victoria. This next section looks at their influence and evolution from representative organisations into the corporations that we see today. Their important role in leading innovation in the technology field is also analysed.

11.3.1. Cooperative monopolies

As described in chapter 6, the Transport Regulation Board (TRB) assumed responsibility for regulating the commercial passenger vehicle industry in Victoria in 1952. The TRB found that while taxis were available within 5km of the city centre, Melbourne's suburbs had very limited access to taxi services. To address this issue, the TRB divided suburban Melbourne into a number of taxi zones. Suburban taxi companies and individual operators were then amalgamated as 'depots' with the aim of ensuring that phone bookings for taxis could be met efficiently. This early structure for booked services contemplated – either consciously or not – that monopoly providers in each zone would offer the most efficient means of delivering a quality taxi service to customers.

Typically, early taxi depots were member-based organisations run by taxi operators on a cooperative basis. Taxi operators were directly involved in the running of the depots and in making decisions about depot rules and activities. Depots also assisted their operator members by offering better buying power for consumables such as fuel, vehicle parts and repairs. Drivers were often placed in a common 'pool' by each depot and shared by the taxi operators.

²⁴ Ipsos Social Research Institute (2012), Op.Cit., p.80

²⁵ Blind Citizens Australia, Submission to the Taxi Industry Inquiry, SS155, p.2

²⁶ Ipsos Social Research Institute, Op. Cit., pp.96-97

From 1953, the use of two-way radio became more widespread, allowing drivers to be directed to pick-up locations while ‘on the road’ (rather than having to return to base) and reducing the amount of dead running by taxis and hire cars.²⁷ This coincided with an increase in the number of homes with fixed line telephones, enabling customers to connect directly with their local taxi depot to pre-book a taxi.

In 1975, a study commissioned by the Victorian Ministry of Transport analysed the organisation of the taxi industry and its suitability to meet public demand. The report concluded that:

‘The flexibility and potential of the current zoning and depot system is limited because the inherent fragmentation does not permit the most efficient utilisation of the taxi industry by location and over time throughout the week.’²⁸

The report recommended:

‘... every opportunity should be taken to amalgamate taxi depots ... [and] the regulation of suburban taxis should be relaxed to allow them increased freedom and efficiency of movement to assist in meeting peak demands in the central areas.’²⁹

The report recognised that efficiency benefits could be gained by re-introducing competitive tension into the market for booked services and led to the removal of many of the suburban zones. Around this time, local monopolies were no longer favoured as the most efficient structure for organising taxi booking services in the Melbourne market.

The removal of the limitations on assigning licences to a third party in 1987,³⁰ enabled many of the founders of taxi depots to ‘step back’ from the day-to-day running of taxis and either retire from the industry or focus on their emerging taxi booking businesses. After this period, taxi depots increasingly became vertically integrated businesses offering a range of services to their affiliates in addition to booking and fare payment processing. Insurance, licence brokering, driver training, vehicle fit-out and purchasing became supplementary revenue sources for taxi depots. Depots evolved from cooperatives owned by their members to networks owned by people who were removed from the direct provision of taxi services.

11.3.2. Early regulation of depots

Mandatory network affiliation has been in place for many decades, having come into effect during the 1950s with the requirement for taxi operators to have their vehicle under radio control of an ‘approved’ depot at all times. The requirement for depots to be approved gave effect to a ‘de facto’ regulatory regime, under which the industry regulator (the TRB and then the VTD) approved depots against a set of guidelines.

The general premise of the assessment was that applicants needed to justify that the approval of the depot would be in the public interest. To comply with the guidelines, applicants were required to provide a business plan of their establishment arrangements; provide a 24 hour warning system for drivers; operate on a 24/7 basis; conduct inspections of vehicles against licence conditions; and discipline drivers for breaching government and industry standards.³¹

While these requirements effectively created a barrier to new entrants, the regulator was not empowered to regulate the performance of taxi depots after their approval. The introduction of the taxi industry accreditation scheme in 2007 sought to address this shortcoming.

11.3.3. Technology, innovation and the role of the depot

Victorian taxi depots were early adopters and adaptors of new technologies. This innovation has increased the efficiency of booking services but has also enabled further business consolidation, market concentration and vertical integration.

In 1974, ‘Bankcard’ was introduced in Australia, Bankcard was Australia’s first widely available credit card and proved to be popular with retail consumers as an alternative to cash payments. This change in consumer behaviour filtered quickly through to taxi services and in 1976 Cabcharge established itself as an industry-specific financial services provider for the taxi industry. The advent of Cabcharge enabled taxi operators and drivers to accept non-cash methods of payment for taxi fares. The administration and distribution of non-cash payments to taxi operators and drivers became a complementary function for taxi depots and a major part of their revenue streams, with customers charged a service fee by Cabcharge and part of this fee paid to the depots.³²

27 Williams, David (1978), Regulation of Taxicabs: The Victorian Case [manuscript], School of Economics, La Trobe University, Melbourne, p.22

28 Pak-Poy, P.G. and Associates P/L (1975), *Study of Melbourne Taxi Services – Prepared for the Ministry of Transport*, Ministry of Transport, Melbourne, p.iii

29 Ibid., pp. iii-iv

30 See section 6.2.1

31 KPMG Consulting (1999), Op. Cit, p.38

32 The issue is canvassed in greater detail in chapter 12

In 1999, the Victorian Government entered into a contract with Cabcharge to use its in-car EFTPOS system to automate the Multi Purpose Taxi Program (MPTP), a taxi subsidy scheme for Victorians who are severely and permanently disabled. To facilitate the new arrangements, the regulator mandated that all taxis be fitted with a Cabcharge EFTPOS terminal (with some very limited exceptions). This requirement further cemented the position of Cabcharge and the networks in the provision of non-cash taxi payments. Secondary EFTPOS providers have been hampered in breaking into the taxi market by both the Cabcharge/MPTP partnership and by hardware limitations on taximeters to only interface with one EFTPOS terminal.³³

In the early 1990s, computer-aided dispatch systems were introduced, replacing two-way radios and dramatically altering the dispatch methods of depots.³⁴ The linking of inbound calls to cars via more sophisticated booking and dispatch systems further created a dependence on the emergent networks, as each individual taxi operator needed the network's equipment to access bookings.

Advances in communications infrastructure technologies led to the digitisation of exchanges, allowing many organisations to reduce the workforce involved in answering calls manually. The eventual automation of incoming calls via the utilisation of Interactive Voice Recognition (IVR) technologies and more recently internet bookings is now at the point where more than one third of bookings received by the two major NSPs are handled without human involvement.

In effect, the major NSPs have entrenched their positions over time by consolidating their control over network services via centralised call centre systems and emergent EFTPOS technology. In this way, the networks have ensured a reliable – and profitable – revenue stream through providing industry infrastructure rather than providing the actual 'on the ground' services.

Competition in the booking and payments markets has been constrained until relatively recently; however, improvements in wireless technologies and the growth in smartphones has started to open up opportunities for competitors.

11.4. Current regulation of taxi booking services

11.4.1. Network accreditation

The number of NSPs within an area is not formally restricted by regulation (other than that NSPs must hold accreditation). In practice, however, the combination of zoning, licence conditions and regulatory decision-making has resulted in high NSP concentration and local monopolies in many country markets. The requirement for accreditation of NSPs was introduced as part of the wider industry accreditation scheme in December 2007. In order to be accredited, primary NSPs must demonstrate that:

- Relevant persons in relation to the organisation are of good character
- They have the business and financial capability to effectively carry out their activities
- Systems are in place to provide for the safety of drivers and passengers
- They record specified information to enable inspection and audit of their operation
- Systems are in place to ensure that prioritisation of bookings for wheelchair work
- They have documented disciplinary procedures for drivers
- A system is in place to ensure that customer complaints are sufficiently managed and resolved.

The rationale for having to demonstrate business and financial capability seems questionable and is not clearly related to safety and other market failure considerations.

Primary NSPs are issued with an accreditation that applies for a period of five years. The accreditation enables them to advertise their services to the public and display branding on the interior and exterior of taxis. The accreditation is issued applicable to a particular zone and restrictions apply to the number of taxis that are permitted to affiliate with the NSP.

³³ The issue is canvassed in greater detail in chapter 12

³⁴ See Smith, Jack (1996), *Silver Top: the first 60 years*, Silver Top Taxi Service, Melbourne

11.4.2. Mandatory network affiliation

There are no specifically stated regulatory objectives with regard to mandatory network affiliation. However, the general understanding within the industry and of the regulator is that the requirement exists to:

- Facilitate universal access to taxis, enabling customers to access a taxi day or night through the NSP
- Provide a safety communication system for drivers and passengers where vehicles can be tracked by a GPS link and an emergency warning system can be activated by the driver in case of an emergency.

Licence conditions for Melbourne metropolitan taxis require the operator to ensure that the licensed vehicle is “at all times operated under radio control from an NSP for the receipt and dispatch of bookings for taxi-cabs, and that the vehicle is fitted with fully operational GPS system equipment linked to that NSP.”³⁵ While the wording of licence conditions varies, similar requirements for dispatch of bookings also apply to taxis outside the metropolitan area.

In addition to these licence conditions, section 133 of the *Transport (Compliance and Miscellaneous) Act 1983* contains provisions that contend that network affiliation is a legislative requirement.

An operator is only permitted to affiliate their vehicle with one accredited network. The rationale for this restriction is not known to the inquiry, but its presence is likely to reduce competition and hamper the efficiency of the fleet. In an efficient booked market, taxi operators could choose to align with two or more networks, seeing value in access to niche markets. In turn, this would provide an incentive for networks to seek out different or varied work and aid competition for network services.

Previous reviews of the taxi industry in Victoria have also questioned the requirement for mandatory affiliation. The 1986 Foletta inquiry recommended that mandatory affiliation be removed to “encourage competition and innovation and allow groups of licence holders to tailor operations to suit particular market segments.”³⁶

KPMG expressed concern that, “the requirement that all taxi-cabs must be operated under radio control may prevent taxicabs from exclusively operating from another form of network (i.e. mobile phone or pager).”³⁷

The Essential Services Commission, in its 2007/08 review of taxi fares made the following observation:

“The requirement that operators affiliate with a depot exposes them to costs which may escalate in an environment of imperfect competition. It has already been observed that among depots there is significant market concentration. Market consolidation reduces the degree of competition, thereby reducing the relative bargaining power of taxi operators and drivers. This is further exacerbated by compulsory depot affiliation which mandates that operators deal with a depot irrespective of what conditions are being offered.”³⁸

11.4.3. Secondary networks

Secondary NSPs are also required to be accredited; however, their requirements under the scheme are minimal compared with those for primary NSPs. In order to be accredited, secondary networks must demonstrate that:

- Relevant persons in relation to the organisation are of good character
- They have business and financial capacity to effectively carry out their activities as a secondary network.

Presumably because operators are required to be affiliated with a primary NSP, secondary networks are not required under the accreditation scheme to manage customer complaints, provide for the safety of drivers, have disciplinary procedures for drivers or have systems capable of recording information in relation to bookings and other data related to their operation.

Even though secondary networks are not subject to the same level of regulation as primary NSPs the inquiry has found that customers have a considerably higher level of satisfaction with their service offering.³⁹

The rationale for accreditation of secondary networks appears to be less clear than for other accredited parties. Secondary networks have no regulated obligations to provide any level of service to customers or to their members, making it difficult to see how accrediting these industry participants contributes to the stated purposes of accreditation: safety, efficiency and reliability.

35 For example, Taxi-cab licence conditions for Conventional Fixed-Term Licences, *Transport (Compliance and Miscellaneous) Act 1983*, section 144

36 Foletta, B (1986) Report of the Taxi Inquiry – Melbourne and Metropolitan Area, p.57

37 KPMG Consulting, (1999), Op. Cit., p.39

38 Essential Services Commission (2008a), *Taxi Fare Review 2007/08 – Interim Report*, Melbourne, p.59

39 Ipsos Social Research Institute (2012), Op. Cit., p.80

The inquiry's view is that there is little case for secondary networks to continue to be accredited for their activities; similarly, there appears to be no rationale for excluding secondary networks from being permitted to display branding on the interior and exterior of the vehicle. If it is necessary for the regulator to know which secondary networks exist in the industry a simple registration scheme could operate instead, although it is not clear whether the regulator needs to know this detail.

11.4.4. Industry self-regulation

Regulation of the taxi and hire car industry is not just a matter for the Government. There is a long tradition of industry self-regulation particularly through depots in the past. As described in section 11.3, depots had rules and procedures for affiliates or members to follow and they enforced those rules. The operations of these organisations are subject to general laws, including the *Australian Competition and Consumer Act 2010* (Cth), so that their conduct must be within the limits of these laws.

Whilst the rules and procedures of depots were particularly focused on the effective operation of their collective booking systems, including equipment in vehicles, they also covered many other aspects that impinge on service performance, safety and competition. For example, there were rules which cover appropriate driver behaviour toward customers, as well as other drivers; there are rules covering vehicle standards and cleanliness; and there are rules relating to behaviour at ranks and rostering.

Industry self-regulation can be exercised collectively, for example through depots or NSPs, as well as by individual firms in the industry. Self-regulation can apply where firms have some discretion in their conduct; that is, their conduct is not totally determined by government regulation or competition (market regulation).

In response to concerns about the adequacy of industry performance and the perceived unwillingness of networks to take full responsibility for improving performance, the Government introduced accreditation for networks (and licence holders and operators). To be accredited, networks had to meet certain prescribed standards and had to adhere to Business and Service rules prescribed by the Minister. This has raised a number of issues, which arguably have had a negative, rather than positive, impact on performance. First, the Government's move signalled to the industry a shift in emphasis away from self-regulation toward regulation by the Government. Since in many ways the Government was in a weaker position to ensure regulation of service performance was adhered to than the industry was, this move, although well intended, was not necessarily desirable. Second, the move also resulted in unnecessary regulatory duplication

and confusion. Government regulation covered some similar ground to that covered by the rules and procedures of networks and government regulation itself was confusing in that it was not easily accessible being located in the *Transport (Compliance and Miscellaneous) Act 1983*, regulations, Business and Service Standards and accreditation conditions set by the regulator.

When asked who was responsible for delivering high quality taxi services in Victoria 23 per cent of taxi users considered taxi companies (networks) were, 15 per cent thought the Victorian/State Government were and 12 per cent thought the VTD was responsible.⁴⁰ This highlights the confusion about roles and responsibilities in the industry.

The potentially important role of industry self-regulation in promoting good industry performance is widely recognised by the OECD and Australian and Victorian Governments. This is not to suggest that industry self-regulation should always be seen as an alternative to government regulation, but rather that industry self-regulation and government regulation need to be effectively coordinated and unnecessary duplication between them avoided. As the OECD has commented:

Industry self-regulation is not always an appropriate alternative to government regulation. When the risks of a particular behaviour or non-behaviour are high it is more likely that government regulation in some form will be needed. It is clear, however, that many of the public policy outcomes sought by traditional government regulation also can be achieved through effective industry self-regulation while not necessarily incurring the costs and inefficiency of formal regulation. Rather than utilising a single regulatory model, the optimum response to behaviour within a market may consist of a mixture of government regulation, self-regulation or other alternatives to traditional regulation. The challenge for policy makers is to find the right mix of market forces and intervention to achieve policy objectives and ensure efficient social, economic and environmental outcomes.⁴¹

Self-regulation can be particularly effective where it seeks to promote standards which are higher than the minimum acceptable level and when competition is active.

⁴⁰ Ipsos Social Research Institute, (2012), Op. Cit., p.11

⁴¹ OECD Committee for Consumer Policy, Engaging with Industry to Achieve Better Consumer Outcomes: a report discussing industry self-regulation as a complement or alternative to government regulation, including case studies, 30 September 2009, pp. 10-11

The inquiry considers that there is a need to rationalise existing government regulation in relation to taxi networks and work to achieve a much more effective balance between industry self-regulation, government regulation and competition. The DOT appears to share this view although it is also concerned that there are underlying weaknesses with self-regulation.

“Fundamentally, it is DOT’s view that the accreditation schemes have been unable to significantly influence the motivations of industry participants because the underlying regulatory structure remains in place. As with previous legislative reforms in the sector, the accreditation regimes have simply layered new rules on to a regulatory model which has changed little since the 1930s.”⁴²

Significantly, the VTA is also highly critical of accreditation arrangements and in discussions with the inquiry has proposed an alternative structure where responsibility for managing quality services is the domain of networks and not the regulator.

The inquiry is sympathetic to the view that the industry should be primarily responsible for service performance, though it has some qualifications to this view:

- NSPs must have legal responsibility for the adequate performance of services provided under their brands. Without affecting any responsibility that operators and drivers have, it is considered that NSPs should be covered by the consumer guarantee provisions of the Australian Consumer Law (see case study).
- NSPs should actively monitor the performance of their operators and drivers to ensure they adhere to appropriate standards.
- NSPs need to implement customer complaint handling procedures that are in line with approved standards.
- Procedures and remedies should be put in place to discipline operators and drivers who fail to adhere to appropriate standards. These procedures need to adhere to natural justice principles. They should include provisions to suspend an operator and/or driver from the network for an appropriate period of time.
- Regular reports on service delivery should be provided to the regulator and the regulator needs to have powers to audit these reports as required.
- NSPs and the regulator need to work collaboratively to ensure industry-wide sanctions can be imposed on persistent offenders.

- Safety considerations must be of paramount consideration for the regulator and to its industry monitoring and enforcement efforts need to focus particularly on this.

Despite claims by the VTA to the contrary, the power to discipline operators and drivers was not taken away from them. NSPs continue to have the ability to seek liquidated damages from drivers and operators in relation to poor service performance and to impose penalties where these do not conflict with the general law. NSPs have argued that they do not have the capacity to adopt an even more effective measure, which would be to suspend a poor performer from the network for an appropriate period of time. It was suggested to the inquiry that this would involve a restraint of trade. However this matter was clarified by the Federal Court as far back as 2000.⁴³ As long as the sanction imposed is arrived at fairly and honestly and the sanction is necessary to protect the NSPs interests, an NSP can take this action.

It seems the NSPs have felt compromised in taking action against drivers who have not performed adequately. To take a driver off the system would also potentially adversely affect operators who are the main source of income for the NSPs. Far from being a negative, however, the inquiry considers this would be a good thing as it would reinforce the incentives of operators, as well as the NSPs, to ensure drivers did the right things.

The inquiry considers that it is essential to have a clear understanding of the respective responsibilities of NSPs and the regulator so that unnecessary duplication of roles is avoided and a more co-operative approach to regulation is achieved. Where possible, regulation imposed on NSPs should be outcome-based and avoid unnecessary prescription, which characterises the current regulation. To this end detailed discussions with the VTA have been held covering a large number of matters including the following:

Fares

- Fare refusal
- Short fare
- Refuse WAT work
- Bookings

Driver appearance

- Driver identification
- No uniform
- Hygiene

⁴² Department of Transport, Submission to the Taxi Industry Inquiry SS168, p.21

⁴³ Aerial Taxi-Cabs Co-op Society Ltd/as Canberra Cabs v Lee, FCA, 1628, 2000

Driver knowledge

- Geography
- General

Vehicle condition

- Cleanliness
- Safety

Driver behaviour

- Unsafe/illegal driving practices
- Refusing passenger directions
- Not taking the most direct route
- Rude behaviour
- Refusal to assist passenger
- Refusal to carry assistance animal
- Assault – verbal or physical
- Not running the meter/ negotiating price with passenger outside of contracted arrangement
- Not logged on to electronic payment system
- Running at higher tariff rate
- Not complying with legislation or licence conditions

The inquiry expects that this exercise will eventually not only lead to a clarification of responsibilities, but it will also be the basis for a more substantive rationalisation of regulatory instruments. This would entail consideration of the legislative provisions, accreditation provisions and conditions, and the Business and Service Standards affecting NSPs. This would potentially result in both a more effective regulatory framework and also one that significantly reduced regulatory burdens on the NSPs.

Inquiry findings

- ➔ The existing regulatory framework places a high degree of emphasis on taxi operators and drivers for delivering quality services, and very little emphasis on networks. The framework relies on prescriptive government regulation and the compliance activities of the regulator to achieve quality services. Market driven regulation and industry self-regulation are under utilised, despite being well placed to deliver efficient outcomes that meet community and industry expectations.
- ➔ There is large scope to rationalise existing regulation relating to NSPs to more clearly define the role of NSPs in service performance and to remove unnecessary regulatory burdens.

11.5. Performance issues

11.5.1. Ability to deliver guaranteed service/advanced bookings

As noted previously, many taxi users are mystified as to why the NSPs cannot guarantee a service will arrive on time (or at all) when it has been booked hours in advance or is a regular daily or weekly booking.

NSPs have argued for some time that they are not empowered to direct affiliated operators to perform a booked job. The inquiry has not been provided with a specific reference to a regulation that may give effect to this restriction and has not been able to locate any statutory restriction on this practice. Rather, it seems that the reluctance to direct drivers is a discretionary one:

The driver is free to accept or reject bookings offered to the driver by the Network and applicable to the class or type or taxi-cab at the time of offer driven by the driver.⁴⁴

In 2004, Silver Top Taxis was the subject of litigation that sought to find that they had discriminated against wheelchair passengers by providing a different service to those passengers.⁴⁵ While the case was dismissed, Federal Magistrate Walters did make some pointed comments regarding the service provided to wheelchair passengers:

One of the main thrusts of Silver Top's argument was that it is unable to compel taxi operators to accept or prioritise a booking. The fact of the matter is, however, that for the reasons explained by Mr Franet (from Silver Top), it elects not to compel taxi operators to accept or prioritise bookings. That is so because it has chosen not to make the compliance by a taxi operator with the terms of his licence a real and enforceable condition of his affiliation with the depot.⁴⁶

44 Silver Top Taxis Ltd, Owner and Driver Handbook, supplied to the Taxi Industry Inquiry by the VTD, July 2008, p.13

45 Walters FM, Federal Magistrates Court of Australia, Ball v Silver Top Taxi Service Ltd, December 2004, FMCA 967

46 Ibid., p.39

Walters FM also said:

“Until such time as Silver Top does introduce such a policy, it seems to me that it should advise all potential WAT hirers that it is not prepared to (itself) enforce the requirement in its affiliated WAT operators’ licences to the effect that they must give priority to hirers in wheelchairs. Such potential hirers could then give thought to putting in place alternative arrangements (including, for example, ceasing to use the Silver Top booking service and proceeding to make private arrangements with the WAT operators themselves).⁴⁷”

The inquiry acknowledges Silver Top Taxis was acquired by the present owners, Gange Corporation, in 2003. Consequently they were not in control of the company in 2002 at the time of the incident that led to the litigation. Notwithstanding this, it is clear from review of Silver Top Taxis’ operating handbook and also from subsequent recent discussions with the inquiry that they have not amended their operating procedure to ensure that bookings that are accepted from customers are delivered.

It is understood by the inquiry that the practices described above are not unique to the operating rules of Silver Top Taxis and are the case for most, if not all, primary NSPs.

Application of Australian Consumer Law to Network Service Providers

A new Australian Consumer Law (ACL) was introduced on 1 January 2011. The ACL is a schedule to the Commonwealth *Competition and Consumer Act 2010* (CCA) and is a national, state and territory law that has replaced previous consumer protection legislation.

The ACL provides statutory consumer guarantees that provide consumers with a comprehensive set of rights for the goods and services they acquire. The consumer guarantees are based on the same core principles as the previous implied warranties and conditions that existed in state and territory fair trading laws and the Commonwealth *Trade Practices Act 1974*. Although the new provisions prescribing the consumer guarantees do not expressly state that the guarantees will apply to consumer transactions only where there is a supply under a contract, the better view is that the consumer guarantees only apply in the context of a contractual relationship.

Consumer guarantees (relevantly) apply where:

- a person supplies services;
- they do so, in trade or commerce; and
- those services are supplied to (and acquired by) a consumer.

The types of consumer guarantees required to be provided by suppliers of services are:

- services will be rendered with due care and skill;
- services and related products will be reasonably fit for their identified purpose; and
- services will be supplied within a reasonable time.

In a legal sense, NSPs do not enter into a contract with consumers when they take bookings. As one NSP’s operating manual puts it: “If the prospective hirer agrees to hire the taxi cab the contract of hire is between the driver and the hirer.”

As a result of this, the consumer has no guarantee that NSPs will provide services with due care and skill, that their booking services will be reasonably fit for their identified purpose, or that services will be provided within reasonable time. This is despite these services being provided under their own brand names.

The inquiry is of the view that the NSPs should be covered by the ACL consumer guarantee provisions.

⁴⁷ Ibid., p. 39

11.6. Complaints handling by NSPs

Under the accreditation scheme for primary NSPs they are required to “operate a complaints management system that is consistent with Australian Standard AS 10002, including procedures for complaint resolution and referrals to other parties”.⁴⁸ Despite this requirement, the inquiry has heard that taxi users generally get very little satisfaction from complaining about booking services to an NSP.

One customer relates that, after having booked a taxi well in advance for an elderly friend and having the taxi fail to turn up:

I rang [the NSP] to be informed that they had no such record of my booking ... I subsequently rang the company's head office and was told that in fact, there was a tape recording of my original booking request made the day beforehand with all details exactly as I had related them. I once again emailed the company. I received what I consider to be barely an apology, let alone reassurances regarding future improvements.⁴⁹

Another taxi user related their view to Ipsos during their research:

It's a well known fact that the taxi industry never does anything about complaints.⁵⁰

This approach by NSPs in handling complaints is perhaps further evidence of the weak competition that troubles the market for network services and is a result of them successfully evading any responsibility to taxi customers for the delivery of services referring that responsibility to taxi drivers and to a lesser extent taxi operators.

Inquiry findings

- ➔ Taxi users are highly dissatisfied with the reliability of taxi booking services, particularly during peak periods.
- ➔ Customers reasonably expect that the company they contact for the booking of a taxi is accountable to them for the delivery of the taxi service, and despite NSPs being well placed to guarantee the service of their affiliates they have decided not to do so.

11.7. Concerns about NSPs

In addition to complaints about taxi booking services, a number of other concerns relating to NSPs have been raised with the inquiry.

11.7.1. Competition between NSPs and the role of the ACCC

As noted earlier in this chapter, many taxi operators have expressed the view to the inquiry that concentration in the number of NSPs in Melbourne is problematic. These operators argue that this concentration has contributed to a lack of competitive pressure on NSPs to keep their costs down or to improve their service offerings.

The market in which NSPs compete has become much more concentrated over the last 25 years. At the time of the Foletta inquiry in 1986, there were eight depots; by the time of the KPMG NCP review in 1999, there were seven. Currently, the market is highly concentrated, with only two large firms and one smaller competitor. By one conventional measure of market concentration, the Hirshman-Herfindahl Index (HHI), concentration has increased to a level where it would be considered highly concentrated by competition authorities around the world.⁵¹ The inquiry's calculations suggest that, if market share is measured by the number of operators connected to the NSP, the HHI for the metropolitan market has increased from 3,240 to 4,750 over the last 12 years (where 10,000 is consistent with a monopoly and 5,000 with a duopoly).

Some of this increase in concentration can be attributed to smaller companies growing ‘organically’ at the expense of their competitors. However, mergers and acquisitions have also contributed substantially to the increased concentration. Mergers and acquisitions of NSPs have been overseen by the Australian Competition and Consumer Commission (ACCC), the statutory body charged with enforcing the *Australian Competition and Consumer Act 2010*. Section 50 of the Act provides that mergers or acquisitions are prohibited if they would have the effect or likely effect of substantially lessening competition.

48 *Transport (Compliance and Miscellaneous) Act 1983*, section 133C, Business and Service Standards, part 3 (22)

49 Irene Goldwasser, *Op. Cit.*, p.3

50 Ipsos Social Research Institute (2012), *Op. Cit.*, p.86

51 The HHI is calculated by adding the sum of the squares of the post-merger market share of the merged firm and each rival firm in the relevant market, thereby giving greater weight to the market shares of the larger firms. (ACCC, *Merger Guidelines* 2008, p.37)

The ACCC has been called on a number of times in recent years to deliberate on mergers and acquisitions between taxi depots or NSPs. The salient points for the inquiry from these deliberations are:

- The approach taken by the ACCC to market definition
- The ACCC's competition analysis, including the nature of the issues identified
- The outcomes arising from the ACCC decisions, including what this might mean for the shape of the industry in the future.

Analysis of the ACCC's decisions is limited by the amount of information released by the Commission in reaching its conclusions. Much of the information received by the ACCC is retained as commercial-in-confidence material, with often only a summary of the issues or considerations available publicly. Nonetheless, the inquiry has undertaken some analysis of these decisions on the basis that there may be important lessons for how competition in NSPs has developed and may continue to develop over time.

Market definition

Acquisitions considered by the ACCC have usually involved markets for either the provision of radio booking services to taxi operators or the provision of pre-booked taxi services to the public. In some instances, notably where Cabcharge has been a relevant party, the relevant markets have also included those for taxi-specific non-cash payment instruments or payments processing.

The geographic scope of the markets identified has invariably been determined with respect to the zones within which licensed taxis operate. This is notwithstanding evidence that some depots have stronger market positions in certain geographical areas within those zones (for example, North Suburban and West Suburban Taxis). Payment markets have usually been defined nationally.

The ACCC's decision in relation to Silver Top's attempted acquisition of North Suburban Taxis in 1995 remains the richest source of the Commission's analysis with respect to mergers or acquisitions of NSPs and depots.⁵² In that decision, the ACCC noted the following factors as supporting its market definitions:

It is readily apparent that in many situations street or rank hire will be a very inferior, or no real substitute to pre-booking a taxi ... Furthermore, the hiring of taxis from ranks or on the street does not appear to constrain the taxi depots in any direct competitive sense. This is particularly so when it is considered that all taxis must be affiliated with a depot. It is not at all clear that taxi depots are in any way sensibly constrained by the opportunity of passengers to street hire or the nature of competition amongst individual taxi drivers for street hire passengers.

...it does not appear to the Commission that there is any substantive evidence to suggest that hire cars offer the close degree of competition that is relevant, either to other taxi operators or taxi depots, at the same time recognising that hire cars may have some degree of competitive impact generally in respect of taxi services.⁵³

In this decision, the ACCC also noted the links between the two markets as defined above:

As will become clear, it is the first market with which the Commission is particularly concerned, however recognising that the degree of competition in the first market will affect the quality and level of service in the later.⁵⁴

Although this terminology was not widely used in the economic literature at the time, it is now recognised that these inter-dependencies are fundamentally important to the analysis of these kinds of markets. They are known as 'two-sided' markets: where the role of firms within these markets is to coordinate interactions between two groups of users on either side of a transaction. Firms competing in these markets are essentially trying to solve an ongoing problem of balancing between two sets of consumers: a taxi booking service has no value to consumers if there are no vehicles attached to the depot and the booking service has no value to operators unless there are consumers who call the booking service seeking a taxi. One important implication of this is that it is not possible to fully understand what is going on in one side of the market (such as the market for depot services) without understanding what is going on in the other side (such as the market for pre-booked taxi services).

In general, and as noted above, the ACCC has recognised these interactions. However, in some cases the ACCC has made comments suggesting that competition for operators is much weaker than competition for customers.

⁵² ACCC, Silver Top Taxi Service Commission Determination, 16 October 1995

⁵³ Ibid., p.17

⁵⁴ Ibid., p.18

Competition analysis

A useful distinction can be made between mergers and acquisitions that are 'vertical' and those that are 'horizontal'.

- *Horizontal mergers* are those between firms competing in the same market (or at the same functional level of the market) – for example, two depots in the Melbourne area. These kinds of mergers are the standard issue of concern in competition analysis and there is a relatively well-defined body of law and economics that suggests that increasing horizontal integration is *prima facie* undesirable. Of course, there can be many reasons why aggregation is ultimately found to be not anti-competitive.
- *Vertical mergers* are those between firms operating in vertically-related markets (at different functional levels of the market) – for example, between a depot and a supplier of payment services to that depot. These kinds of mergers tend to be less problematic than horizontal mergers, as there is often no obvious source of harm where the two firms are not currently competitors. However, the issues involved can often be complex – and all the more so when the merger or acquisition has an element of increasing both horizontal and vertical integration.

The mergers and acquisitions in the taxi industry considered by the ACCC have more commonly been of the vertical type. Primarily, this is due to the activities of Cabcharge, which has acquired a number of NSPs in capital cities in Australia over the last 15 years.

Horizontal mergers

A number of horizontal mergers have been considered by the ACCC in Victoria, particularly in Melbourne. These include:

- The (failed) acquisition of North Suburban by Silver Top
- The acquisition of North Suburban by Black Cabs
- The acquisition of Embassy by Arrow
- The acquisition of Arrow by Black Cabs
- The acquisition of West Suburban by Silver Top
- The acquisition of Geelong Cabs by Silver Top.

Generally, the ACCC has been permissive of horizontal mergers in recent times. This reflects a significant change since the Commission's 1995 decision to block the acquisition of North Suburban by Silver Top. It is not obvious why this shift has occurred as – as discussed above – the ACCC's approach to market definition has remained broadly the same over this period.

In 1995, the ACCC's analysis about how the proposed North Suburban acquisition would affect competition included the following comment:

The Commission considers that a significant anti-competitive effect of the proposed acquisition is the reduced number of depots competing to attract the business of taxi operators in metropolitan Melbourne. The Commission is of the view that there would be little commercial imperative following the proposed merger for Silver Top to achieve the highest common denominator in terms of operating efficiencies or customer service, and that this detriment has not been outweighed by any demonstrable public benefit.

...the Commission has found that the barriers to entry for these businesses remain substantial, and mitigate against their long-term prospects. The Commission therefore considers it important that the goodwill attaching to North's business name, its radio booking facilities and telephone lines, and the substantial number of operators aligned to the depot not be subsumed by the largest participant in the market.

The loss of North as a depot deprives taxi drivers of a significant alternative in their choice of depot based on size, location, functions, services to the public and corporate identity. Should Silver Top's integrated computer system prove to reduce unit costs and dead kilometres travelled, thereby improving the efficiency of individual operators, then taxi drivers will undoubtedly exercise their power of choice to transfer to the Silver Top depot and take advantage of its system. This would occur in the event that the acquisition does not proceed.⁵⁵

In 2009, the ACCC did not oppose Silver Top's acquisition of West Suburban and gave the following reasons:

In relation to the supply of taxi services to the general public, the ACCC noted that, given the fares paid by the general public are regulated, the current nature of competitive tension between depots in attracting jobs primarily relates to the quality of taxi services provided.

The ACCC found that many dimensions of service quality on which taxis compete are more within the control of the taxi driver or operator than the depot. On the dimensions of service provision on which depots do compete, the ACCC noted that Black Cabs and Silver Top regard each other as their closest competitors.

⁵⁵ Ibid., p.31

The ACCC also noted that West Suburban's geographic coverage is largely complementary to that of Silver Top.

In relation to the supply of taxi depot services to taxi operators in the metropolitan Melbourne taxi zone, the ACCC's market inquiries suggested that there was limited competition for drivers and operators between Silver Top and West Suburban.⁵⁶

As the ACCC's decision in 2009 lacks any further details, it is difficult to tell what evidence was before it to distinguish the two decisions. From the statements made by the Commission, the inquiry surmises that:

- The concept of 'closest competitors' is given greater credence in the second decision, with some weight being attached to the market positioning of Silver Top and Black Cabs (now 13 CABS).
- In 1995, it was argued that more concentration would lead to less incentive for networks to compete for taxi operators and that there was little competition possible for customers given regulated fares and a fixed quantity of vehicles.
- The complementarity of geographic coverage was a relevant consideration in the 2009 decision, whereas in 1995 the two firms were seen as competitors, notwithstanding their strengths in particular geographic areas.

At face value, the first and third points seem contradictory. The first says that size in the market (metropolitan Melbourne) is the important determinant of competition, not geography (even though there is significant evidence that Silver Top and Black Cabs were stronger in particular geographic regions of Melbourne). The third says that geographic factors are important, as West Suburban's operations are 'complementary' to Silver Top's.

Spatial analysis of NSP data, for each NSP over the same period in 2011, demonstrates the importance of established networks within a geographic zone. West Suburban is shown to have a strong presence in the western suburbs while Silver Top and 13CABS have market dominance in other areas of Melbourne. The following figures illustrate the pick-up locations of jobs completed by each of the metropolitan networks with darker areas indicating a higher number of jobs completed.

Figure 11.2 Heat map of West Suburban Taxis pick-up locations



Figure 11.3 Heat map of 13CABS pick-up locations



Figure 11.4 Heat map of Silver Top Taxis pick-up locations

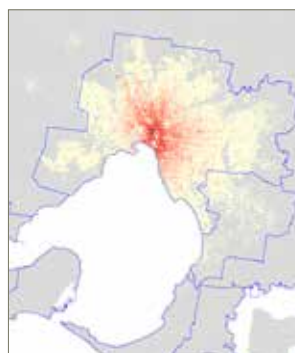


Figure 11.5 Heat map of Platinum Taxis pick-up locations



Source: TII analysis of NSP supplied data

⁵⁶ ACCC (2009), A Gange Proprietary Limited - proposed acquisition of West Suburban Taxis Pty Ltd, www.accc.gov.au/content/index.phtml/itemId/872435/fromItemId/751043 accessed 23 March 2012

The inquiry considers that the arguments made by the ACCC in 1995 with respect to competition are still relevant. Generally, networks are not in a position to offer service differentiation because fares remain fixed and networks cannot directly acquire more licences. Therefore, competition largely focuses on establishing a recognisable brand for consumers and on acquiring affiliated operators. It is difficult to understand how, given the relevance of geographic considerations, there could have been limited competition for drivers and operators between West Suburban and Silver Top as their historic catchment areas for taxi operators are adjacent to one another.

In 1995, the ACCC also dealt with another important argument about the efficiency of network operation and whether this could justify an acquisition. The Commission noted that such efficiencies were not merger-specific; that is, in the absence of the merger, Silver Top would have had a cost advantage if it was more efficient than North Suburban and could have attracted more taxi operators without the need to acquire North Suburban.

A further concerning feature of other ACCC decisions has been the reliance on regulation as a merger-specific factor that lessened concerns about competitive detriment. In *Acquisition of Murrell Enterprises Pty Ltd trading as Bay City Cabs (BCC) by Silver Top Taxi Service Limited* the ACCC noted that it “took into account that the regulation of the provision of taxi hire services in Geelong including pricing is the responsibility of the Victorian Taxi Directorate”.⁵⁷ It is unclear why this should be a relevant factor and it is concerning if it was a significant factor as the purpose of merger regulation is to prevent the accumulation of market power which includes, among other things, the power to set higher prices for consumers. Further, the key price at issue is not the price paid by users for taxi services or for booking services. Rather, the key price is that paid by taxi operators for NSP services. This has never been regulated by the VTD or any other statutory authority.

Vertical mergers

The key vertical mergers considered by the ACCC in recent times have involved Cabcharge. The particular concern that has been raised in relation to a number of acquisitions by Cabcharge is the potential for Cabcharge to protect its strong position in markets for electronic payments and processing by raising barriers to entry.

The particular concern in assessing these mergers is that NSPs have an important role in determining the kinds of equipment (and particularly payments processing equipment) that are installed in a taxi.

In relation to the recently cleared acquisition by Cabcharge of Yellow Cabs in Adelaide, the ACCC released a statement of issues suggesting that the acquisition was likely to cause a competition concern. This concern appeared to be driven by submissions that suggested that Cabcharge's acquisition would reduce the size of the market for competing payment instrument providers or processors, because Cabcharge would refuse to deal with other payment instruments and would install only Cabcharge processing units. This followed an earlier attempt by Cabcharge to enter the market in Adelaide through a proposed acquisition of Suburban Taxis in 2008. In that case, Cabcharge withdrew from the acquisition before the ACCC could make a determination.

The ACCC ultimately considered that the proposed acquisition of Yellow Cabs was unlikely to substantially raise barriers to entry and therefore was unlikely to substantially lessen competition in these markets. Within the context of the Adelaide metropolitan area, the ACCC considered that there would still be two independent taxi networks (each with a substantial share of affiliated taxis) that could be approached by new entrants.

The ACCC's decision in this instance is puzzling, given the context of its other enforcement actions against Cabcharge. The ACCC previously undertook actions against Cabcharge for refusing to supply – on commercial terms – services that would allow its cards to be processed by competing payments processors.⁵⁸ The inquiry understands that nothing has changed since the terms of the ACCC settlement were released: Cabcharge still does not provide access to any independent payments processors.

In this light, it seems highly optimistic to expect that firms considering offering competing non-cash payment instruments will not be deterred by increasing vertical linkages between Cabcharge and NSPs, particularly given Cabcharge's very high market share in the market for non-cash taxi specific payment instruments.

⁵⁷ ACCC (2006), Silver Top Taxi Service – proposed acquisition of Murrell Enterprises Pty Ltd, www.accc.gov.au/content/index.phtml/itemId/764968/fromItemId/751043 accessed 3 April 2012

⁵⁸ See case study in section 12.4.2

This also means that other NSPs and operators will be concerned about installing equipment that cannot process Cabcharge-branded cards. Regular taxi users, and particularly corporate users, who tend to be higher users of Cabcharge cards likely have an expectation that these cards will be accepted. If alternative equipment is installed that does not process Cabcharge cards, there is a strong possibility of user dissatisfaction and ultimate loss of taxi users.

The inquiry is concerned primarily about the effectiveness of competition in markets for payments processing and payment instruments. Over time, it appears to the inquiry that Cabcharge has been extremely effective in stifling the development of competition in these markets. The merger approval process is clearly not preventing these competition issues from emerging.

Future issues likely to emerge

A key issue for the inquiry is how future mergers and acquisitions might be treated by the ACCC, particularly if certain changes are recommended.

The inquiry notes that further consolidation of NSPs in metropolitan Melbourne is unlikely, as a duopoly already exists. Further consolidation will almost certainly reduce competition. In addition, even if the current structure stayed the same there will be little opportunity for future vertical mergers to lessen competition, as Cabcharge now has a very strong market presence across payment instruments, payments processing, taxi equipment supply and network services.

However, the inquiry is concerned about the potential effect of the ACCC's recent merger approach if significant changes in zoning result from the inquiry's recommendations.

11.7.2. Barriers to entry

In order to be sustainable, a new network must establish its business concurrently on both sides of the two-sided market. Acquiring enough operators to meet customer demand is further complicated by any restriction on licence numbers since this means that new NSPs have to attract taxi operators away from existing NSPs.

Two critical and competing elements are present that further act as barriers to the creation of a successful new network. The first element is the need to establish goodwill and brand understanding with consumers, encouraging them to change their behaviour and move away from more established brands. The second element is that operators need to be assured of a sufficient

supply of revenue derived from booked work from the new network to meet their own high operating costs and retain bailee drivers. These two factors compete in that a new network may find it difficult to offer acceptable wait times to customers without an adequate number of taxis in the fleet, while operators will be reluctant to join a network that cannot provide them with sufficient work to make a profit.

As mentioned above, the current limited supply of taxi licences results in new entrants needing to encourage existing taxi operators to break their affiliation with the established providers and move to the new network. Due to the high number of ancillary services currently provided by the existing NSPs, operators will likely incur a high level of costs in switching their affiliation, including equipment removal and re-installation (for payment terminals, dispatcher technology and cameras), refinancing of vehicles and licences, a risk of losing assignments, and the loss of supply of network trained drivers. The inquiry understands that there are few instances of operators switching networks.

Where these costs are borne by the operator, they act as a very effective deterrent to switching. Alternatively, if these costs are subsidised by the new network as an incentive for operators to switch affiliation, this will result in significantly higher set-up costs for the new NSP.

The one new entrant into the Melbourne market in recent years is Platinum Taxis. Platinum Taxis has experienced only marginal growth over its first four years and continues to offer its services to taxi operators at a significantly reduced rate than that of the two major metropolitan networks. Platinum Taxis have focused their consumer offerings predominantly at 'high end' service in long wheelbase vehicles having originally emerging from a well established secondary network. Despite reduced affiliation fees (see Figure 11.6), Platinum Taxis has not experienced material growth within the Melbourne NSP market.

Most operators that are affiliated with Platinum Taxis are also known to continue to source work through their association to secondary networks and through private clients of the operator and/or driver. This reduces their reliance on booked work from the primary network.

As long as licensing numbers are subject to quantitative restriction it will be difficult to overcome the barriers to entry for new NSPs. In this context there is a stronger case for removing the mandatory affiliation requirement. In an open market there will be more opportunities to establish new NSPs.

Inquiry findings

- The inquiry considers that, under the existing structure, the cumulative costs associated with attracting current operators into a new network presents high barriers to entry for new competitors in this market.
- The continuing existence of quantitative restrictions on licence numbers strengthens the case for removing mandatory affiliation.
- The barriers to entry in becoming a new taxi network under the current model are to some extent preventing new competitors from emerging.

11.7.3. Price of NSP affiliation

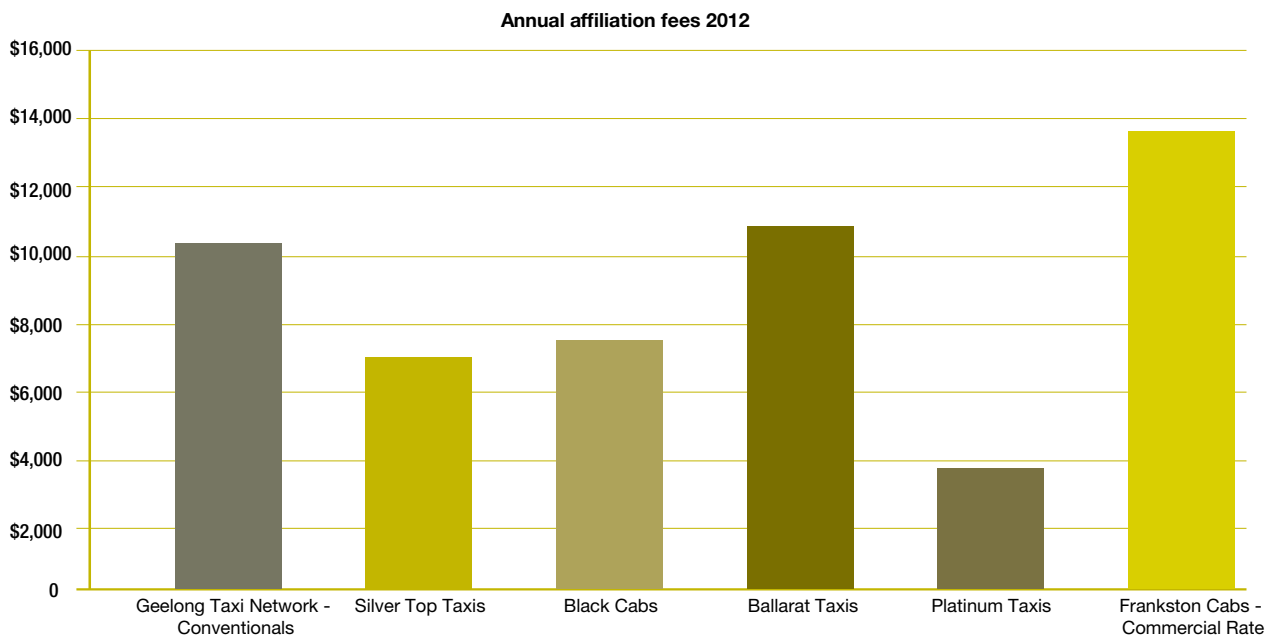
A number of taxi operators emphasised to the inquiry that they consider themselves as ‘customers’ of NSPs, along with taxi users, arguing that this point is often lost in discussions about the structure of the industry and competition issues. One taxi operator sums this up:

“We operators pay a fee to NSPs so they can find us jobs. As simple as that. That makes us, together with drivers, customers and we want our rights to be protected.”⁵⁹

These operators note that NSPs derive their core revenue by charging an affiliation fee for each vehicle, in addition to also charging fees for ancillary services.

In Melbourne, the affiliation fee is currently approximately \$7,000 per annum, with both of the dominant providers having comparable charges. Fees for the smaller outer suburban networks are significantly higher than this. In regional areas, affiliation fees are much higher, as much as \$14,000 per year. Figure 11.6 provides a summary of NSP affiliation fees supplied to the inquiry.

Figure 11.6 Comparison of NSP affiliation fees



Source: NSP information provided to the TII

⁵⁹ Alex Saltikov, Submission to the Taxi Industry Inquiry, SS95, p.1

Metropolitan NSPs charge affiliation fees per 28 day period and that the same fee is generally charged without reference to the licence type or how many booked jobs are taken. For example, peak service taxis are charged the same fee as a 24-hour taxi, despite being only permitted to operate for up to 16 hours per day.

Regional NSP fees are understood to be more expensive because those smaller networks have fixed costs that must be shared by fewer affiliates. Platinum Taxis on the other hand is believed to have kept fees below market rates as part of its strategy to attract new operators.

Costs associated with the running of large NSPs are understood to be largely fixed costs: that is, costs that do not vary with output. These costs include the cost of IT and telecommunications infrastructure. This means that there are some economies of scale associated with NSP operation, as the owner of Silver Top Taxis explains:

The attractiveness of the services that a particular network service provider offers to taxi drivers and end users tends to increase with the number of taxis affiliated with, and users of, that network. The communication systems that are used to operate also exhibit economies of scale to a certain degree. For these reasons, it is an expected (and efficient) economic outcome that the provision of network service provider services will naturally gravitate towards a relatively small number of providers.⁶⁰

The variance in prices for network services between metropolitan and regional areas demonstrates this economy of scale to some extent. However, taxi operators have advised the inquiry that prices for network services in Melbourne have continued to increase annually above the rate of CPI for the last 10 years, with affiliation fees having risen around 15 per cent above the rate of CPI over this period. It is notable that, during this period, more than 1,100 additional licences were released into the metropolitan Melbourne market, which should have further assisted NSPs to achieve greater economies of scale, fund new infrastructure and maintain or even reduce fees to affiliates. Based on today's fees, the additional licences alone have resulted in NSPs enjoying a share of additional annual affiliation revenue in the order of \$7.7 million.

The inquiry considers that while economies of scale may have been achieved by the progressive mergers of smaller suburban networks and the growth in number of operators, it is possible that the benefits have not been passed on to operators by way of lower affiliation fees.

The Essential Services Commission noted in its submission:

A number of factors suggest that NSPs are in a position to charge excessive affiliation fees.⁶¹

The ESC contends that these fees may be less than efficient because they are likely to contain an element of monopoly rent due to there being few competing networks in any given taxi area. The ESC's view is supported by these observations regarding increases in fees in recent years.

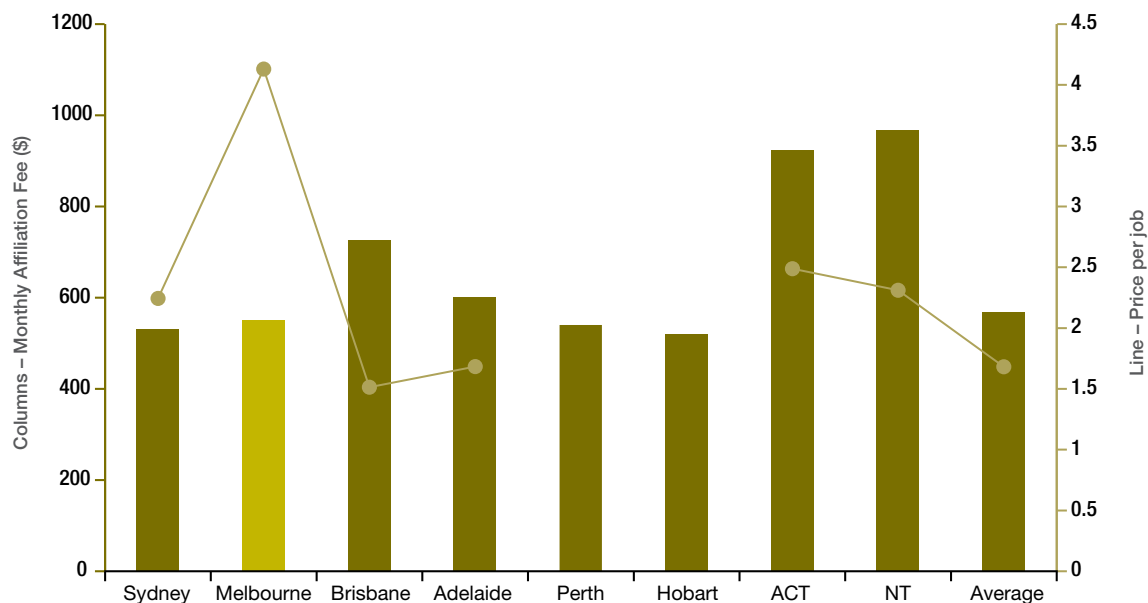
The relatively large size of the Melbourne networks by comparison with networks in other Australian capital cities suggests that relatively low network service fees in Melbourne could be expected. However, the affiliation fees of the major Melbourne NSPs appear to be comparable with similar networks across Australia, with Melbourne fees only slightly below the average. Since networks in other jurisdictions also have dominant market positions, it cannot be claimed that this demonstrates that the Melbourne network service fees are not excessive.

Despite the apparent comparative cost of monthly affiliation fees across Australia, the cost of affiliation in Melbourne does appear to be disproportionately high when measured by the number of jobs dispatched to taxis. This further suggests that the economies of scale that have been achieved by Melbourne networks are not being passed on to their affiliates. Figure 11.7 demonstrates that the cost of affiliation when measured per booked job is \$4.10 for Melbourne while Sydney is almost half the cost at \$2.20.

60 Gange Corporation, Op.Cit., p.5

61 Essential Services Commission, Op.Cit., p.13

Figure 11.7 Comparison of average affiliation fees in other jurisdictions



Source: Australian Taxi Industry Association – Taxi Statistics 2010. www.atia.com.au/taxi-statistics accessed 17 April 2012.
 Note: NSP data supplied to the TII has been substituted with the ATIA data to produce the Melbourne ‘price per job’ finding.

11.7.4. Pricing structure of NSPs

As noted above, NSPs derive their revenue at least in part from the number of affiliated operators they have and the services they provide for them. Taxi users do not directly pay a fee to book a taxi through a NSP,⁶² although NSPs should have some incentive to provide good customer service to taxi passengers because they will be rewarded by attracting more affiliated operators.

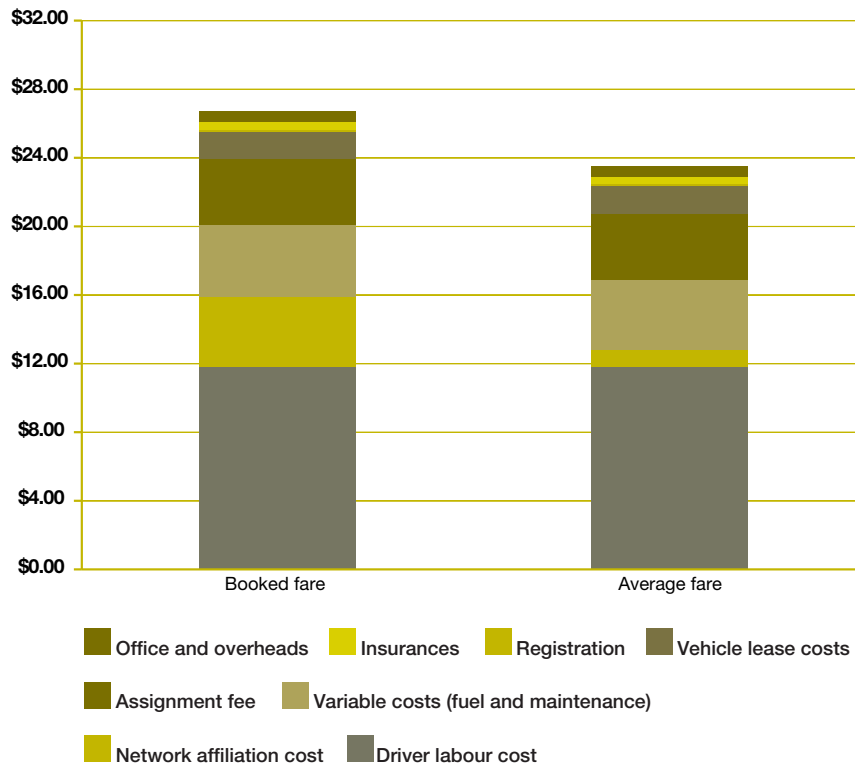
Some industry participants have argued that the market for NSP services is responsive to customer satisfaction because that influences the level of work that is dispatched to operators’ vehicles and that influences which NSPs they choose to affiliate with. However, this is less likely to be the case in the market for taxi bookings in Victoria where the number of competitors within a given region is low and where the cost of switching for operators is high.

It has been suggested to the inquiry that a fairer mechanism would be a ‘user pays’ system where the affiliation fee comprises fixed and variable components. The fixed cost would cover infrastructure costs such as telecommunications, emergency warning systems and dispatch technology, while the variable component would cover costs associated with the delivery of actual bookings, such as call centre staff and marketing. This would arguably be a more efficient pricing approach since the prices charged would more accurately reflect the costs involved.

Under the current fee structure, all operators pay for booking services regardless of whether they are taking this work. In other words, some operators are obtaining considerably more benefit based on their high reliance on NSP work, while others may be receiving considerably less benefit because they focus on private bookings or the hail and rank market. The inquiry has identified examples where operators are accessing fewer jobs per month from their primary NSP than the cost of affiliation. It is possible that these operators would choose not to affiliate with a network if it were not a legislative requirement.

⁶² The fare structure in Victoria does provide that customers pay an additional \$2 phone booking fee. This fee is calculated on the basis that the driver has to travel to pick up a booked job (a notional 2km is used)

Figure 11.8 Booked fare costs – operator revenue



Source: TII analysis of industry and operator data.

It does not appear the revenue obtained through completing booked jobs is sufficient for operators to meet the fixed costs of running their taxi. In effect the rank and hail market is therefore cross-subsidising the cost of completing booked jobs. Figure 11.8 shows the cost of completing a booked job as \$26.70 which is more than \$3 greater than the revenue obtained from the average fare of \$23.85. Further discussion regarding taxi operator profitability is included in chapter 5 of this report. The inquiry acknowledges that a small portion of the cost of network affiliation could be attributed to jobs completed in the rank/hail markets due to the emergency monitoring services provided by the NSP.

The current affiliation fee structure seems inefficient with poor incentives for NSPs to seek out more taxi consumers as the effect will be increased bookings and a greater demand on their infrastructure (and therefore increased costs) without any increased revenue in the short term. The limited choice in the delivery of network services, combined with the requirement that operators must affiliate with a network, has resulted in an imbalance in the bargaining power between suppliers (NSPs) and consumers (taxi operators) in this market. The result of this imbalance is one explanation for this inefficient pricing that is currently observed.

Inquiry findings

- Introducing more competition to the market for taxi booking services is likely to drive innovation, offer better marketing of taxis as a transport option, and deliver higher quality and greater choice for consumers.
- Taxi operators will benefit from increased competition by having greater bargaining power to obtain improved choice and better value for money.

11.8. Regulation, performance and reform

Major structural reform of the role of NSPs within the taxi market appears to be critical to delivering sustainable taxi reform. In particular, reforms should aim to:

- Improve accountability for service delivery by making it clear that the responsibility for the delivery of taxi services rests with the taxi company whose name appears on the taxi vehicle and whom the customer reasonably believes is delivering their service
- Increase offerings in the market by encouraging competition and relaxing regulations that currently inhibit new taxi companies from forming and becoming established
- Improve taxi operators' bargaining power and give them a choice to affiliate with one or more NSPs or to operate independently, taking responsibility for meeting quality standards themselves
- Ensure that driver and passenger safety is protected.

While the inquiry's overall reform package has significant implications for NSPs, key areas of reform are summarised below. A description of how these areas interact with the inquiry's broader reform proposals is contained in chapter 19.

11.8.1. Mandatory affiliation requirement

The rationale for mandatory affiliation is often stated to provide for the safety of the passenger and the driver and to provide universal access to taxis for customers. Mandatory affiliation is a feature in many taxi markets in local and overseas jurisdictions, but not all jurisdictions. It does not apply in London for example. However, a requirement to maintain a direct link with the taxi vehicle seems desirable to provide for the safety of the driver, however, this does not mean that this can only be met through mandatory affiliation with a network.

On the other hand, the case for universal access in the current market is difficult to validate and appears to be an objective that emerged in an era of less sophisticated communications where mobile phones and internet-enabled portable devices were not commonplace. The argument for universal access is further weakened in light of its failure to actually deliver a guaranteed service. Increasingly, taxi consumers are turning to other channels to book taxis, meaning that the 'problem' of universal access has largely been overcome. This objective is also contrary to more efficient market based regulation where customers will gravitate towards companies that can offer a service that meets their expectations. These customer expectations could include wait times, driver competency, vehicle type and potentially price.

As discussed above, the removal of the requirement for taxi operators to affiliate with a primary NSP is unlikely to result in many operators cancelling their affiliation. Even though an operator may only perceive a small number of bookings through a network, affiliation may be seen as something of a safety valve for the operator. Operators may also gain value from other services provided by the NSPs and inertia may inhibit some operators from moving. Experienced drivers and operators with their own book of private clients are more likely to move away from taxis altogether and take advantage of the inquiry's recommended reforms in the hire car sector. Hire cars are discussed further in chapter 14 of this report.

Despite the likelihood of little impact in the short term, the inquiry considers there are a number of reasons to remove the mandatory affiliation requirement. First, the case for maintaining the regulation no longer justifies the restriction and so only constrains the market. Second, the restriction has the potential to distort the market for NSP services and removing it will assist operators to obtain better value for money. Third, removal of the mandatory NSP affiliation would assist in lowering the barriers to entry for new networks to enter the market.

11.8.2. Restriction on NSPs refusing affiliation to taxi operators

Regulation currently exists that prevents NSPs from refusing to offer affiliation to taxi operators without a reasonable excuse. This regulation is presumably associated to mandatory affiliation. Removal of mandatory affiliation should therefore enable NSPs to cancel an operator's affiliation as operators will still be able to ply for hire directly within the rank/hail market and by sourcing their own client list.

The removal of mandatory affiliation coupled with relaxation of the restriction on refusing to offer affiliation to operator will improve the ability of taxi booking services to 'protect' their brand against poor quality drivers/operators. This will be consistent with a new model of stronger competition where customer service is paramount to a successful business.

The inquiry acknowledges that there will be concerns from industry participants that NSPs may be able to use this measure for reasons other than protecting their brand such as to bundle other products offered by the organisation. However, safeguards to prevent abuse of market power exist under competition law and normal administration law procedures should apply to ensure operators are not treated unfairly in being refused affiliation.

11.8.3. Affiliation with more than one network

Current regulation does not expressly restrict an operator from affiliating with more than one network where this opportunity does in fact exist. However, the inquiry understands that the relevant provisions are interpreted in this way by the VTD. The objectives in excluding multiple affiliations are unclear. Somewhat superficial reasons such as that the driver will be unable to wear the uniform of two NSPs at one time have been offered as relevant considerations.

The impact of this restriction is that it limits NSPs from competing for additional subscriptions for taxis in what may potentially be a lucrative market. If this limitation is removed, NSPs may contribute to greater competitive tension and thereby provide greater choice to taxi operators and taxi consumers. Affiliating with more than one NSP under the current pricing arrangements could entail significant additional costs for operators. Without this limitation, however, NSPs could choose to offer tailored pricing packages for operators to encourage them to subscribe to their network at certain times or for certain services. This offering would then become a 'value decision' for operators who presumably will only subscribe to the network's package if they can see a net benefit. In turn, NSPs may then have an incentive to seek out niche markets or expand services beyond the traditional market.

11.8.4. Driver and passenger safety

As discussed in chapter 17, the inquiry has identified significant problems with the existing emergency warning systems currently in use. One reform option is to develop minimum standards to ensure that acceptable performance thresholds can be met without mandating how an operator meets these standards and thresholds. While acknowledging that a strong case exists for a system to monitor the safety of passengers and drivers, NSPs do not need to be the exclusive providers of such a system. The development of minimum outcome standards will enable other providers to enter the market where they consider they can obtain sufficient take-up of their product by taxi operators.

11.8.5. Barriers to entry at the taxi network level

As mentioned earlier in section 11.4, NSPs are required to obtain an accreditation with the VTD. The accreditation scheme is a barrier to new entrants to the industry to some extent and is difficult to justify in light of the impediments it has presented to the industry in achieving quality services themselves.

The inquiry recognises the importance in the ongoing regulation of networks however any scheme should and only be imposed provided measurable benefits for consumers can be demonstrated. Any such scheme should not serve to restrict competition in this market.

A significant step here would be to recognise that operators could link to any NSP, not just one within their zone. This would immediately increase contestability among NSPs and reduce entry barriers.

Some of the requirements of the current scheme that have delivered little value, in the view of the inquiry, include the requirements to demonstrate financial suitability and business capability. In the case of financial suitability, general laws regulated by the Australian Securities and Investment Commission already prohibit an organisation from trading while insolvent. In the case of business capability, the inquiry is aware that this provision is interpreted broadly in practice, and can be an onerous hurdle for a new network. In general, the market is a better regulator of business capability by allowing those networks with the best business capability to prosper.

The inquiry acknowledges that there is a case for retaining a character assessment for relevant persons however, there appears to be considerable scope to rationalise this assessment given the different relationship NSPs have with customers as compared with drivers or other industry participants.

Under a future scheme where self-regulation and the market are relied on more to deliver benefits to the community, the regulatory scheme for networks could be used to aid data collection and proper identification of organisations. These measures would be necessary in order to publish performance information to assist taxi customers.

Inquiry findings

- ➔ Reforms are needed to lower the barriers to new taxi networks forming and to give operators greater bargaining power and choice, while still protecting the safety of drivers and customers.

Chapter 12.

12. Payment systems

Key messages

- Unlike most other goods and services, all electronic payments in Victorian taxis attract a 'service fee' or surcharge of at least 10 per cent of the total fare (in addition to GST). This surcharge costs taxi users at least \$30 million per year and appears to be well in excess of the costs incurred in processing such payments.
- High surcharges on taxi fares are linked to both a lack of competition in the payments systems markets and to markets in which taxi services are supplied. This lack of competition stems from significant barriers to entry and expansion for firms seeking to process non-cash payments and the limited incentives for taxi operators and networks to compete by offering lower surcharges to taxi users.
- The Victorian Government has inadvertently created barriers to entry to the payment instruments and payment processing market through (a) its policies allowing Cabcharge to be the sole provider of data collection services for the Multi Purpose Taxi Program (MPTP) and (b) through the approvals process for EFTPOS terminals in cabs. These barriers can and should be removed.
- Existing competition in payments processing focuses on attracting taxi operators and drivers by offering rebates funded from the prevailing 10 per cent surcharge. On average, these rebates account for around half of the surcharge.
- Even if some barriers to competition in payments processing are lowered – such as access to processing Cabcharge-branded cards and the removal of the MPTP Cabcharge monopoly – the 10 per cent surcharge is likely to remain common practice. Market pressure for a reduction in the surcharge will only occur if and when taxi operators and/or network service providers compete effectively for consumers.

- There are some technological developments that offer the promise of lower fees to taxi users. It will be important to ensure that regulation facilitates, rather than stifles, such innovation.
- The Australian Competition and Consumer Commission and Reserve Bank of Australia are well placed to oversee and enforce regulation of anti-competitive behaviour in the payments systems market.

A number of concerns have been raised with the inquiry in relation to in-cab payment systems, most notably the 10 per cent 'service fee' or surcharge that applies to electronic payments and the lack of competition in the payments instruments and payment processing markets.

This chapter outlines concerns about taxi payment systems raised in submissions and consultations. It describes the history of these systems and the characteristics of the payment systems market. It discusses market concentration and vertical integration (including Cabcharge's dominance of the market), regulatory and commercial barriers to entry, the behaviour of payment processing providers and the potential effects of technology. Finally, the chapter discusses options for reform to enhance competition and reduce the 10 per cent surcharge currently imposed on Victorian taxi users.

12.1. Introduction

As with most other goods and services, taxi fares can be paid by a variety of methods. Passengers can use cash, debit cards, credit cards (such as Visa and MasterCard) or third party charge cards (such as American Express and Diners Club). They can also obtain an electronic or paper-based taxi-specific payment instrument (a card or voucher) prior to commencing the trip and have the fare charged to a personal or business account.

However, unlike most other goods and services, all electronic payments in Victorian taxis attract a total 'service fee' of at least 10 per cent of the total fare (the metered fare, any flagfall, booking fee, tolls and GST payable). GST is also payable on service fees, which brings the total surcharge to 11 per cent of the value of the fare, except when a consumer uses a Cabcharge-branded card.¹ The surcharge on electronic payments substantially increases the total cost of taxi travel. For instance, a passenger paying with a credit card for a typical trip to Melbourne Airport from the CBD will pay around \$6.00 on top of the total fare.

12.1.1. Submissions and consultations

Payment systems in taxis are raised in submissions by taxi users and industry participants. Taxi users and drivers commonly view the service fee as excessive, anti-competitive and even a cause for anger directed against taxi drivers:

There is no excuse for this. It is simply anti-competitive behaviour and adds to the cost of taking a taxi.²

The fees charged are 'robbery' and unfairly increase the price of our service to our customers.³

...the service fee and the GST on service fee charged by... Cabcharge is outrageous. It really needs to be reconsidered. 11% extra is good enough to make passengers angry on driver.⁴

The cost to passengers using non-cash payments is excessive – the standard 10% plus GST is an outrageous imposition by a corporation abusing its monopolistic market power.⁵

The unreasonableness of the surcharge is particularly evident for large organisations that spend substantial sums of money on taxi travel, including some government agencies. For example, the Transport Accident Commission (TAC) spends approximately \$4.5 million each year on taxi travel for its clients. This implies that the TAC is charged approximately \$450,000 in service fees each year.⁶

The inquiry also received comments from taxi operators who supplied information about their dealings with payment system providers.

Cabcharge responded to an information notice issued by the inquiry about how it sets the level of the surcharge. Cabcharge maintains that this was the level of fees generally applying when it first began business and is the level of fees charged by a range of other providers of like services. However, the inquiry is unable to make a judgement on the level of fees, as Cabcharge has provided no data on its costs.

Gange Corporation provided clarification about the nature of Silver Top Taxi Services Ltd relationship with Cabcharge and the degree of vertical integration of Silver Top. Gange Corporation noted that Silver Top did not own any shares in Cabcharge, while Gange Corporation, its subsidiaries and directors each owned a very small number of shares in Cabcharge (less than 0.2 per cent of total issued shares). There are also no common directorships between Gange Corporation and its subsidiaries and Cabcharge.⁷

Another provider, CabFare, shared information about the payment systems industry and its views on areas needing reform.

12.2. Background

Since the mid-1990s, when the first electronic payment processors were used in Victorian taxis, the use of non-cash payment instruments by taxi users has grown significantly.

While precise figures are unavailable, data from a large Melbourne operator indicates that, on average, 40 per cent of taxi fares are paid electronically. This includes credit and debit cards, taxi-specific charge cards and vouchers. Cabcharge's own published results show strong growth in the use of bank-issued cards in taxis in Australia over the past five years, as shown in Figure 12.1.

1 Cabcharge chooses to absorb the GST on these transactions, making the service fee 9.1 per cent

2 Ms Gold, Submission to the Taxi Industry Inquiry, SS31, p.1

3 Keith Murdoch, Submission to the Taxi Industry Inquiry, SS230, p.2

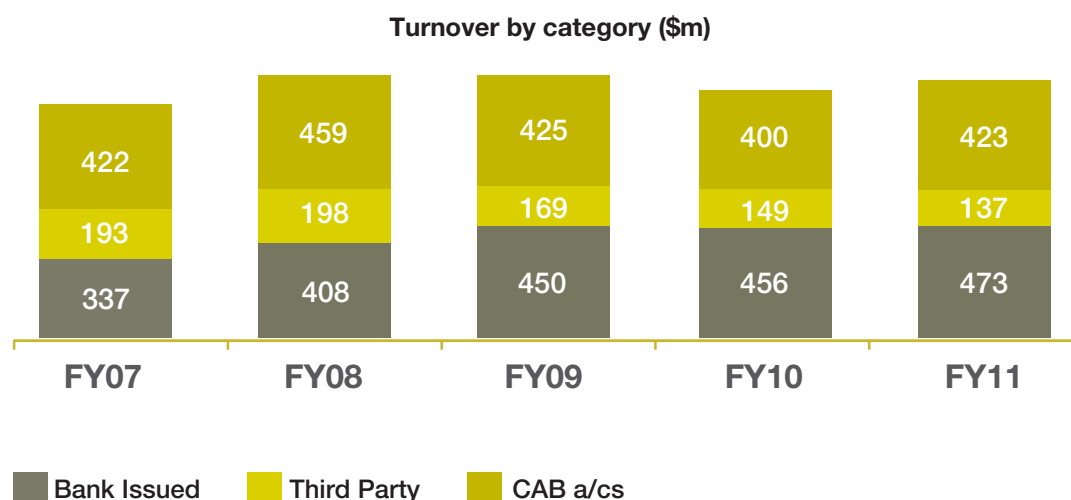
4 Omer Farooq, Submission to the Taxi Industry Inquiry, SS169, p.1

5 Australian Taxi Drivers Association (ATDA), Submission to the Taxi Industry Inquiry, SS27, p.3

6 Correspondence with the TAC, 30 March 2012

7 Gange Corporation, Submission to the Taxi Industry Inquiry, SS124A, p.3

Figure 12.1 Trends in the use of electronic payment in taxis, Cabcharge results



Source: Cabcharge Australia Limited, Results Presentation, Year Ended 30 June 2011, ASX website
www.asx.com.au/asxpdf/20110825/pdf/420m67s6sllnnv.pdf

As in other sectors, non-cash payment instruments are a popular payment method because of their convenience and security. This benefit extends not just to taxi users, but also to taxi operators and drivers, as reducing cash held in the taxi reduces the threat of robbery. Taxi-specific non-cash payment instruments (such as the Cabcharge charge card) provide additional benefits to consumers, notably a line of credit, detailed records of travel expenditure and a reduced risk of fraud or misuse. This makes them particularly popular for corporate and government use. Based on the same operator's data referred to above, the inquiry estimates that up to 50 per cent of weekday taxi fares (when the share of corporate and government taxi use is highest) are paid electronically.

With approximately 32-35 million trips taken in Victoria each year, at the average Melbourne fare of \$23 (which is typically a lower fare than the average fare of trips paid for electronically) – and based on 40 per cent of all fares being paid electronically – the inquiry estimates that the service fee generates at least \$30 million in revenue each year.

12.2.1. History of electronic payments in taxis

The 10 per cent service fee is historically based. The inquiry understands that, prior to 1976, all major Melbourne taxi companies offered and provided a simple docket-based charge account facility to corporate and government customers, charging a 10 per cent service fee for use of the facility. This fee was approved or, at least, not opposed by the relevant regulatory authorities.

Cabcharge's launch in 1976 was based on the assessment that there was a business opportunity to provide to the corporate/government taxi market the ability to travel to any capital city in Australia and charge-up taxi travel. Having a facility that extended across the country eliminated the need for people to carry cash for taxi travel (and then claim these amounts later), as well as delivering some degree of account consolidation and protection from fraud.

Cabcharge began processing third-party cards (Amex, Diners and MotorPass) in 1982. This extended to bank-issued cards (Visa, Mastercard and Bankcard) in the late 1990s after Cabcharge launched its Fareway mobile EFTPOS system. Cabcharge called for tenders from all the major banks to become the acquiring bank for all Cabcharge bank-issue transactions. The National Australia Bank was the successful tenderer and contributed \$10 million to acquire (and own) the EFTPOS terminals. In 2005/06, these terminals were replaced by terminals that are owned by Cabcharge.

Cabcharge extended the 10 per cent service fee for charge account facilities to all electronic payment transactions made using the Cabcharge terminal.

12.3. Characteristics of the payments systems markets

The supply of electronic payment systems in Victorian taxis comprises two key activities:

- The supply of **taxi-specific non-cash payment instruments** (such as the Cabcharge charge card)
- The supply of **non-cash payment processing systems** that are used to process electronic transactions including credit cards (such as Visa and Mastercard), debit cards and taxi-specific non-cash payment instruments.

The firms providing these taxi-specific platforms, as well as bank-issued or third party credit, debit and charge card providers, are identified in Table 12.1.

Table 12.1 Market participants in payment instruments and payments processing markets

Non-cash payment processing system providers	Payment instrument providers
Four players in the Victorian market Cabcharge Taxi LiveEpay CabFare GM Cabs	Taxi-specific: Cabcharge, Live Payments (charge cards, vouchers) Third party charge cards: American Express, Diners Club, Motorpass Bank issued credit cards: MasterCard, Visa Card Bank issued debit cards

The markets for payment instruments and payments processing have several characteristics that provide important context for the way services are delivered and that also help to explain why such a seemingly high surcharge can continue to be applied. These characteristics are:

- The high risk of providing payments services to the taxi industry
- The demand for payments systems services
- Network effects.

12.3.1. The risk profile of the taxi industry

Taxi drivers and operators are not the 'merchants', as are retailers in normal electronic payment transactions.

Banks consider taxi operators a high risk as merchants and are resistant to dealing directly with operators independently. To overcome this issue, 'merchant facilitators' (such as Cabcharge, CabFare and Taxi LiveEpay) aggregate taxi operators' transactions and represent them as the merchant 'interface' with the banks. These intermediaries effectively become the 'merchant' and they pay the merchant fee charged by the acquiring bank when a cardholder pays for a taxi fare with a card. They also incur various operating costs, such as providing the in-cab processing machines, undertaking repairs and maintenance to these machines, and some customer service.

Merchant fees charged by the banks are based on risk and the volume of transactions. As taxi merchants are considered relatively high risk and are a relatively low volume transactor, they face higher merchant fees than most other merchants. Discussions with one payment processor reveals that basic merchant fees range from close to one per cent for Visa and Mastercard to four per cent for American Express. Debit card fees are generally lower and are applied on a flat, per transaction basis. As a larger payment processor, Cabcharge is likely to incur lower merchant fees than its competitors, although the inquiry has not been able to confirm this.

12.3.2. Demand for electronic payment services

With a surcharge that many consumers and industry players consider to be excessive, it may be surprising that an estimated 40 per cent of taxi fares are paid electronically. One explanation for this can be found by examining the demand side of the market. Consumer demand for payment instruments and payments processing is derived from demand for underlying taxi and hire car services. Payment systems, like taxi drivers, are inputs to the taxi service. Two factors suggest that demand for electronic payments is likely to be inelastic – that is, not very responsive to a surcharge:

- Demand for the underlying taxi services is inelastic and therefore the demand for payment instruments and processing is also likely to be inelastic
- Service fees or surcharges remain a relatively small part of the total fare.

This inelasticity is due to a lack of substitutes for both payment systems and taxis.

First, there are no alternative payment methods that provide the same benefits as taxi-specific payment instruments or other electronic payment instruments, particularly for higher value fares. Carrying a large amount of cash can be insecure and inconvenient, and is not favoured by business users in particular.

Secondly, the payment system is directly linked to taxi use and competition does not work effectively in these markets. Offering a lower surcharge offers minimal benefit to the operator because, in many situations, this will not lead to more business – for example, for taxis taken from a rank or hailed. Nor is there any discounting in the pre-booked market segment: it is notable that both large metropolitan networks benefit from rebates from Cabcharge derived from the 10 per cent surcharge.

Limited awareness of the surcharge levied by payment system operators may also be a factor leading to inelasticity of demand. Feedback from drivers in particular suggests that while business users are aware of the charge, other users are less aware and are likely to confront drivers if they notice it on their fare:

Most business people know about the surcharge, and don't care because the boss pays for it. The general public are the ones who do not understand, and often they will think the taxi driver has put extra on the payment, and this can cause arguments.⁸

12.3.3. Network effects

Payment instruments and processing systems are 'two-sided' market platforms. A two-sided platform is one where the platform acts as an intermediary between two groups of customers, creating value from transactions between the two groups. Two-sided markets have some unusual features, but perhaps the most important feature in relation to the taxi industry is the scope for network effects.

In relation to payment instruments, the two 'sides' are account holders and taxi operators. Account holders want to hold instruments that will be accepted by taxi operators. Taxi operators want to accept instruments that will be used by account holders and taxi passengers. In a similar vein, the two 'sides' of the payment processing market are taxi users and taxi operators. Again, the interest is in holding and accepting cards that will be used and processed by users on the other side.

These market characteristics give rise to so-called 'network effects'. Users require different functionality from the payment system, but each obtains value from interacting with users of the opposite group – in fact, the value of the payment service is dependent upon the number of other users using it. This kind of market characteristic will tend to favour concentrated markets, unless the costs to consumers or to operators of holding multiple cards or multiple payments processing units are not too high.

The inquiry understands that many taxis in Victoria have more than one processing unit in the vehicle, which suggests a processing monopoly is not a foregone conclusion. In addition, many consumers will hold more than one type of card or payment instrument, which will allow for some competition to develop between processors.

In relation to payment instruments, if the market is defined for taxi-specific payment instruments, then Cabcharge has a very strong position in this market. It appears to have largely captured the network effects and has re-enforced this by integrating into payments processing and network services. In this instance, an account holder will be unwilling to choose another taxi-specific payment instrument because there is a real prospect that this instrument will not be accepted in all taxis – in particular, those with a Cabcharge processing unit.

⁸ Christine Coombes, Comment on Taxi Industry Inquiry Facebook page, 2 April 2012

A further key feature of two-sided markets is that there are two sets of users and therefore two 'prices'. Prices are structured by the firm so that the user with more inelastic demand pays more for the service, as this will maximise the profits of the firm operating the platform. In taxis, payment instrument and processor providers subsidise the more price sensitive side (operators) and charge the side whose demand increases more strongly in response to growth on the other side (passengers). Not only do passengers prefer the payment system that is most available, but they are also less price sensitive – particularly in a market with little competition and often no substitutes.

12.4. How supply conditions and regulations affect market structure and performance

Features such as the number of suppliers, barriers to entry and the relationship among participants in the payment systems market all influence competition among providers of payment systems.

12.4.1. Market concentration

There is a high level of market concentration in the non-cash payment systems market with one enterprise, Cabcharge, historically holding market power⁹ in both taxi-specific payment instruments and payments processing. Cabcharge is the only significant taxi-specific payments instrument, and Cabcharge estimates that its electronic payment processing system is found in approximately 97 per cent of Australian taxis, limousines and water taxis,¹⁰ including all – or nearly all – taxis in Victoria

In the electronic payments processing market, Cabcharge competes with three smaller systems in Victoria: Taxi LiveEpay, CabFare and GM Cabs. As these systems are unable to process Cabcharge payment instruments – and given the commercial importance of Cabcharge payments to operators – the inquiry has been told that taxi operators only consider these third party non-cash payment processing systems in addition to Cabcharge, but not in place of Cabcharge. This gives Cabcharge a very strong position in the markets identified.

Little reliable independent data is available to confirm the size of the other three competitors. In its correspondence with the inquiry¹¹ (and published on the inquiry's website), Cabcharge referenced estimates by Macquarie Equities Research that reports a significant market share loss for Cabcharge – down to 33.3 per cent. However, the reliability of this data is uncertain.

12.4.2. Barriers to entry

The inquiry has identified two major barriers to entry that affect the level of competition in the payment instruments and payment processing markets: regulatory and technical barriers, and commercial barriers.

Regulatory and technical barriers

The Multi Purpose Taxi Program (MPTP)

Cabcharge's position in the processing market has been assisted inadvertently by the Victorian Government through its appointment of Cabcharge as the single provider of MPTP data collection services. Cabcharge has provided the MPTP data under a non-exclusive supplier agreement with the Victorian Taxi Directorate (VTD) since 1999, when the scheme adopted smartcard technology along with associated in-cab and back office systems. Moving from a paper system to a smartcard improved the program's useability for members and assisted in controlling fraud. The VTD introduced a licence condition to mandate the installation of terminals so that MPTP payments could be processed electronically in every Victorian taxi-cab.¹² To date, only the Cabcharge system is approved by the VTD, ensuring its presence in nearly every Victorian taxi.

Cabcharge took advantage of the MPTP contract to combine MPTP capability into a standard point-of-sale (EFTPOS) terminal. This technical solution, along with the MPTP supplier agreement with the VTD, has helped to give Cabcharge a significant 'first mover' advantage in the payment systems market and severely limited the ability for competing payments processors to displace Cabcharge. CabFare has told the inquiry:

The design of the M40 electronic system was done in conjunction with Cabcharge. This resulted in a closed system being developed in which the only supplier could be Cabcharge. This inhibited competition, increased costs to the Govt as the customer, and locked in Cabcharge as the 'primary EFTPOS terminal' in a Victorian Taxi.¹³

⁹ The Federal Court found that, at least between 1 February 2005 and 31 July 2008, Cabcharge had a substantial degree of market power in the processing market and the instruments market (see case study)

¹⁰ Cabcharge website, accessed on 29 March 2012 at: www.cabcharge.com.au/company/default.aspx

¹¹ Letter to the inquiry from Cabcharge, 30 August 2011

¹² A small number of regional taxis are exempt from the requirement due to poor local mobile communication coverage

¹³ CabFare, Submission to the Taxi Industry Inquiry, SS92, p.5

The ESC reminded the inquiry of its commentary in the 2007/08 taxi fare review:

This preferred position reinforces Cabcharge's dominance in the provision of in-vehicle electronic payment processing services for the industry. In consequence of this preferential position, Cabcharge is able to obtain a 10% fee for each credit card transaction... Options should be explored for introducing a greater degree of competition in the provision of taxi-cab credit card transaction systems.¹⁴

In December 2011, the Cabcharge contract was extended for two years with a provision allowing termination of the contract 'for convenience' with three months notice.

The inquiry also notes that the Victorian Government has not provided an effective opportunity for other industry players to compete with Cabcharge. In particular, it has not defined a set of service requirements and equipment standards for the MPTP terminal and associated data collection services. Industry participants have expressed concerns to the inquiry that access to these specifications is vital for increased competition in the payment systems market.

State approval of EFTPOS devices

Currently, the *Transport (Taxi-Cabs) Regulations 2005* require an EFTPOS terminal to be tailored specifically for use within the taxi industry¹⁵ and impose a requirement for these terminals to be submitted to the licensing authority for type approval¹⁶. In assessing an application for approval, the VTD considers (amongst other things):

- Whether the payment device has been certified by the Australian Payments Clearing Association
- That only one other payment device is permitted in the cab (in addition to the MPTP terminal).¹⁷

The device must also generate an electronic receipt that is fully compliant with the receipt specified in regulation. The inquiry considers that most of the requirements either replicate other finance and transport industry regulations or are overly prescriptive and unnecessary. For example, regulation should not need to define which device produces a receipt, only that a receipt must be produced.

No other taxi regulator in Australia requires the approval of EFTPOS devices. The criteria have effectively limited the number of EFTPOS providers participating in the market and have supported the need for the 'intermediary' payment system between normal EFTPOS providers and taxi operators. As such, the inquiry considers that the requirements further entrench the practice of excessive surcharging for electronic payment of taxi fares.

Commercial barriers

As discussed above, markets for payment instruments and processing are characterised by strong network effects. Cabcharge has been able to take advantage of these network effects by tying its branded cards to its processing facilities; that is, only Cabcharge EFTPOS terminals are permitted to process Cabcharge cards. Cabcharge has not given other payment providers access to process Cabcharge's own cards and vouchers. As Cabcharge cards are the most widely used payment instrument, and the only significant taxi-specific payment instrument, a taxi operator that does not have the ability to process these cards will be seriously disadvantaged. This means that alternative processors face a significant barrier to establishing a market presence. Market inquiries indicate that Cabcharge branded charge account cards and eTickets account for up to 40 per cent of non-cash transactions in the taxi industry.¹⁸ This was a key issue that the Australian Competition and Consumer Commission (ACCC) sought to address in *ACCC v Cabcharge Australia Ltd* [2010] FCA 1261 (see case study).

Despite the findings and orders of the Federal Court, third party non-cash payment processing systems are still unable to accept Cabcharge branded charge cards, dockets and eTickets. They are limited to the processing of third party charge cards or bank issued credit cards.

¹⁴ ESC, Submission to the Taxi Industry Inquiry, SS151, p.38

¹⁵ Regulation 43(7) *Transport (Taxi-Cabs) Regulations 2005* requires a specific form of receipt to be provided

¹⁶ Regulation 13A *Transport (Taxi-Cabs) Regulations 2005*

¹⁷ These two criteria are operational policies of the VTD

¹⁸ See, for example, Cabcharge Australia Limited, Results Presentation, Year Ended 31 December 2011, ASX website accessed on 29 March 2012 at: http://member.afraccess.com/media?id=CMN://2A668116&filename=20120223/CAB_01271356.pdf

Case study

Cabcharge penalised for misuse of market power

ACCC v Cabcharge Australia Ltd [2010] FCA 1261

In September 2010, the Federal Court imposed a fine of \$14 million – the highest ever penalty for misuse of market power – on Cabcharge for contravening section 46 of the *Trade Practices Act 1974* (TPA).

The court declared that Cabcharge had taken advantage of its substantial degree of power in the domestic market for the supply of:

- services to enable the manual and electronic acceptance, by non-cash means, of payments for taxi fares and charges by taxi passengers; and
- non-cash instruments that could be used only for the payment of taxi fares and charges,

by

- refusing to deal with competing suppliers to allow Cabcharge payments to be processed through rival EFTPOS terminals; and
- supplying taxi meters and fare schedule updates below cost or free of charge.

Cabcharge admitted to three contraventions of section 46(1) as part of its settlement with the ACCC. Cabcharge had refused requests by Travel Tab Australia Pty Ltd (a competing payment processing system) to allow Cabcharge's non-cash payment instruments to be accepted and processed electronically on the Travel Tab system. Cabcharge acknowledged that, although there would have been time and costs involved in developing appropriate interfaces, there was no technical reason that would prevent any electronic taxi-specific payment product from being processed by any EFTPOS terminal as long as the instrument and terminals complied with banking industry protocols.

With Cabcharge holding such substantial presence in the market, the court found that this conduct deterred or prevented Travel Tab from engaging in competitive conduct in the processing market.

Vertical integration

The high degree of vertical integration involving the payment systems market and other layers of the taxi industry has also raised barriers to entry and barriers to expansion for potential entrants seeking to process non-cash payments in the taxi industry.

Numerous vertical mergers involving Cabcharge have been cause for concern for the ACCC over the past 15 years. Cabcharge's acquisition of network service providers (NSPs) in Australian capital cities is considered to have given Cabcharge valuable influence over the payment systems installed in its affiliated taxis and raised barriers to entry that have protected its position in the payments system market. This influence was demonstrated by the authorisations requested (and granted by the Trade Practices Commission) by several networks between 1986 and 1994 to require taxi operators and drivers to accept certain forms of non-cash payments approved under the Cabcharge Account System (see case study).

Through its NSPs, Cabcharge also provides a wide range of services to the industry, including driver training, taxi vehicle 'fit-outs', taxi cameras and meters, licence brokerage and insurance for taxi operators. It is the inquiry's view that these activities have implications for competition in the payments services markets. More specifically, they help to maintain market power in payment instruments and payments processing: that is, Cabcharge is not likely to be seeking to 'foreclose' downstream markets by providing affiliated NSPs with lower cost access to payments services, but is seeking to make it more difficult for entrants into payments processing to provide services to taxi operators.

Through this strategy, elements of the market essentially become foreclosed to other processors, making it harder for them to build scale and compete with Cabcharge. This protection of the 10 per cent surcharge is a key consideration for Cabcharge given that income from the service fee contributes around \$87.3 million to its annual revenue (almost 50 per cent of the company's total annual revenue).¹⁹

¹⁹ Cabcharge Annual Report 2011, accessed on 29 March 2012 at: www.cabcharge.com.au/pdfs/frame.htm?pdf/2011CabchargeAnnualReport.pdf?sel=conditions, p.42

Case study

Authorisations granted by the ACCC to taxi networks to require use of the Cabcharge payment system

On 25 February 1986, the Trade Practices Commission (predecessor to the ACCC) granted authorisation to De Luxe Red & Yellow Cabs in Sydney to provide radio booking services on the condition that taxi operators and drivers accept the taxi hiring account system (Cabcharge) and display the decals of that system.

At the time, the Cabcharge Account System covered the acceptance of most major credit cards and vouchers. The Commission agreed that consumers should not be misled as to the availability of credit card services and that it was in the public's interest for De Luxe to require that all taxis offer the Cabcharge payment system to passengers. Between 1986 and 1994, 11 other taxi companies/cooperatives in New South Wales, Victoria and South Australia (many linked to Cabcharge) were granted authorisation for similar conduct to De Luxe.

Most, if not all, of the networks who had authorisation put in place incentive schemes to encourage operators to process card transactions through Cabcharge in preference to other providers.

In 2004, the ACCC commenced the process for revocation of the authorisations on the basis that there may no longer be any public benefit in continuing them because credit card payment had become such a universally accepted form of payment and it was in the taxi drivers' interest to process most cards. However, the ACCC decided that the small public benefit generated by the authorised conduct marginally outweighed the negligible public detriments and chose not to revoke the authorisations.

Mr Michael Jools, President of the New South Wales Taxi Drivers Association, was dissatisfied with this decision and applied to the Australian Competition Tribunal under s101(1) of the *Trade Practices Act 1974* for a review of the decision. The Tribunal considered further whether the authorisations would continue to make new entry and competition less likely than would otherwise be the case. They considered that with the authorisations in place, the opportunities for a new market participant would be severely reduced. However, without the authorisations, there would be very little incentive for Cabcharge to permit its credit cards to be used in other systems. Further, Cabcharge did not need the authorisations in force to encourage taxi networks to take up their system.

The Tribunal found that the potential benefit in sustaining the authorisations could not be said to amount to a sufficiently certain benefit and the authorisations were revoked in June 2006.

The interconnectivity between the NSPs and Cabcharge means that potential entrants have to negotiate individually with taxi operators or drivers for the supply of competing non-cash payment systems. Negotiation with many thousands of individual taxi operators and drivers is highly inefficient and takes time. The inquiry has also been told that operators who are affiliated to NSPs with links to Cabcharge are hesitant to install Cabcharge's competitors' payment systems as they fear being penalised either directly through the booking network or indirectly by losing assigned licences that are effectively under Cabcharge's control.

12.4.3. Market performance

The surcharge and the behaviour of payment processing providers

The market characteristics described above have led to the 10 per cent surcharge on electronic payments becoming standard practice for all payment systems providers.

It is important to understand the reasons why this charge remains so high – that is, so far above the merchant service fees that are levied on payments processors.

The inquiry understands that a significant factor in maintaining the surcharge is that portions of the surcharge are directed to NSPs – and, in some instances, to operators and drivers – as incentive payments for the use of particular payment processing systems.

The Gange Corporation told the inquiry that under Silver Top Taxis' commercial arrangement with Cabcharge, Silver Top Taxis are entitled to a service fee of 2.5 per cent on all transactions it processes on behalf of the relevant operator. Beyond a certain threshold, a further two per cent rebate on Cabcharge transactions is also provided by Cabcharge to Silver Top Taxis, which is passed through to the taxi operator and not retained by Silver Top Taxis. So, in total, up to 4.5 per cent is offered by Cabcharge as incentive payments.²⁰

²⁰ Gange Corporation, Op. Cit., p. 7

To compete with Cabcharge, the newer entrants to the payment systems market have to differentiate themselves by offering rebates directly to operators and/or drivers. CabFare, Taxi LiveEpay and GM Cabs all provide rebates or commissions to operators and/or drivers who use their facilities. This can be up to a five per cent rebate on the surcharge.²¹

Some taxi operators have told the inquiry that this feature has become an important revenue stream to their business. However, one industry participant advised the inquiry that the economics of these rebates are 'marginal', representing only \$1,000 to \$1,200 of income per year (or approximately \$14 per week) in the best case scenario (based on a two to four per cent rebate on \$40,000 worth of electronically processed fares).

The inquiry understands that payment processing system providers use the remaining surcharge revenue to pay for such things as investment in terminals, back-end processing and merchant service fees to card schemes and acquiring banks. These are the resource costs associated with supplying the services. The other payments appear to simply be transfers between consumers and operators, drivers or networks.²²

Third party providers also compete with Cabcharge through their payment arrangements with operators. All payments from Cabcharge are transferred to operators via the NSPs to which they are affiliated. This process enables the NSPs to deduct charges such as assignment fees and affiliation fees from the incoming credit reimbursements before they reach the operator. The inquiry has heard from operators that this eventual reimbursement usually takes up to two weeks (but can take longer) and that the process is not transparent and is difficult to reconcile. Conversely, third party providers do not involve the NSP and transfer money directly to operators in a much more timely and accountable manner.

Inquiry findings

- ➔ The competitive practices that disburse the proceeds of the 10 per cent surcharge do not benefit consumers in any way. Rather, they simply serve to demonstrate that a 10 per cent surcharge far exceeds the resource costs of providing the payment service.
- ➔ The inquiry considers the service fee levied on the procuring of electronic payments should be brought under regulation as part of taxi fares and set at a level that better reflects the resource costs of providing this service.

What's happening in other places?

New York City

In New York City, around 50 per cent of taxi trips are paid for electronically, either by credit cards or debit cards.

Passengers do not pay a surcharge for using credit or debit facilities. Drivers are not permitted to charge more for credit or debit than for cash payments.

Medallion owners are responsible for the technology in the taxi and are able to deduct up to five per cent of the fare box paid for electronically from drivers' payments. The credit/debit card fees for owners are around 3.5 to 4 per cent. These costs include fees for banks and vendors.

The industry regulator, the Taxi and Limousine Commission, argues that there are significant benefits from using non-cash payments that accrue to both the industry and passenger.

Research shows that acceptance of credit and debit cards presents an opportunity for increased revenue – more trips and greater tips! Drivers will also benefit from increased safety.²³

As discussed in section 12.3.2, even with the lessening of some barriers to competition – such as access to processing Cabcharge-branded cards and the removal of the MPTP-Cabcharge monopoly – the 10 per cent surcharge is likely to remain common practice. Market pressure for a reduction in the surcharge may only occur if and when taxi operators and networks effectively compete for consumers by lowering fares and the costs of associated payment methods.²⁴

²¹ The Australian (8 October 2011), 'Cabbies want cut of plastic fare fees', www.theaustralian.com.au/national-affairs/cabbies-want-cut-of-plastic-fare-fees/story-fn59niix-1226161614795, accessed 4 January 2012

²² Given the highly competitive situation of operators, the inquiry would expect that these rebate payments to operators are competed away (likely to be reflected in higher assignment prices for licences): that is, operators with access to these additional revenue streams will be able to outbid other operators for licence assignments. Therefore, the ultimate beneficiaries of these payments are likely to be licence holders. Given the less competitive situation of networks, it seems more plausible that the networks benefit from fees received from Cabcharge

²³ See www.nyc.gov/html/tlc/html/industry/taxi-cab_serv_enh.shtml, accessed 4 April 2012

²⁴ At present, customers have limited ability to know if a taxi fare will be discounted. For example, operators have only limited opportunity to let their customers know that their card processing fee is less than 10 per cent. Given this, and the fact that fares are mandated, there is little incentive for discounting on a wide scale

Opportunities with new technology

New technology, particularly the use of GPS-enabled smartphone applications to book taxis may have the potential to undermine the 10 per cent service fee. New smartphone apps with payment functions potentially also enable the transfer of payment from a passenger's account to a driver's (or operator's) account, bypassing the need for non-cash payment instruments or their associated payment processing systems (see case study). Of course, it will still be possible for a surcharge to be applied to a fare irrespective of how payment is made, but using these new applications may at least ensure that the bulk of any surcharge finds its way to those providing the service.

While it is difficult to predict how these developments may affect the taxi industry in the future, the inquiry is concerned to ensure that regulation does not stand in the way of technology improving competition in the payments processing market.

12.5. Reform options

The inquiry is concerned that consumers pay excessive fees for processing electronic payments of taxi fares. The significant market power historically exercised by Cabcharge in setting its 10 per cent service fee appears to act as a 'marker' for other payments service providers. This is a particular concern in relation to general bank issued or third party payment instruments, given that average surcharges applied by merchants in other sectors are between one and four per cent. However, the complexity of the operation and regulation of payment systems, the prevailing market characteristics and the uncertain impact of technology all need to be considered carefully when considering options to deal with this problem.

Case study

Technology and fares

Alternatives to using taxi-specific or third party payment instruments are beginning to emerge. The inquiry is aware of at least one application, *ingogo*, that enables taxi users in Sydney to hail a cab and pay the fare using a smartphone. *ingogo* has developed a safe payment function that uses a four digit payment code to protect a passenger's credit card details. Customers download the free *ingogo* app, load their credit card details and enter a four digit payment code. At the end of the trip, customers check the fare entered by the driver is correct, enter the code to authorise payment and receive a receipt via email. The fare is deposited the next business day into the driver's bank account.

ingogo advertise a lower booking fee for using the app and an eight per cent credit card charge, claiming that customers can save 4.7 per cent on an average cab fare.²⁵

The Australian Taxi Drivers Association advised the inquiry that it is working with TAXIS (also currently only operating in Sydney) to offer 'an alternative job offer and payment system' to drivers at any time that also reduces costs to passengers. TAXIS also offer registered users the ability to pay a cab fare using a web-enabled mobile phone, without presenting a credit card. The Association observes that "this action by taxi drivers themselves has the potential to fundamentally reshape the industry by re-directing cash flows from the monopolistic and anticompetitive bodies now dominant".²⁶

²⁵ See www.ingogo.mobi

²⁶ ATDA, Op. Cit., p.4

12.5.1. Removing regulatory barriers

As a starting point, there are obvious measures that can be taken to reverse the effects of current regulations relating to MPTP processing and EFTPOS approvals that have created barriers to competition in the payment systems market.

In considering alternatives to the exclusive MPTP arrangement enjoyed by Cabcharge, the inquiry has identified the features needed to support the MPTP and how these features can be supported through outcomes-based regulation, in conjunction with the collection of in-cab data. The inquiry has found that a specific MPTP data collection provider is not necessary for the processing of MPTP payments or for the provision of additional services required by the program (such as driver identification and trip data). Implementation of the inquiry's recommendation to mandate the installation of meters in taxis that can transmit all trip data direct from the vehicle to the Taxi Services Commission will mean that any type of EFTPOS provider can process MPTP member rebates.

Inquiry finding

- ➔ The current arrangements relating to MPTP data collection and the approvals process for EFTPOS terminals in taxis act as barriers to entering the payment processing market and should be changed.

12.5.2. National regulation

The lack of access to Cabcharge branded cards has also reduced competition nationwide in markets for taxi payments processing. However, the Victorian Government has little power to effect change in this area. Competition law rests in the federal domain, with the ACCC being responsible for ensuring that payments system arrangements comply with the competition and access provisions of the *Commonwealth Competition and Consumer Act 2010*. As discussed above, the ACCC has endeavoured to address the commercial barriers to entry in the past and continues to monitor Cabcharge's behaviour. The inquiry supports the ACCC's continued scrutiny of this issue.

The Reserve Bank of Australia (RBA) also has a key role in the operation of the payments systems in Australia and the inquiry has followed with interest the bank's recent review of card surcharging (see case study). The inquiry wrote to the review to request that it consider any and all measures that will help to ensure that fees charged for electronic payments for taxi services are consistent with those that would be charged in a competitive market.²⁷

²⁷ This submission is available on the inquiry's website.

The Australian Taxi Drivers Association also brought practices in the taxi industry to the attention of the review:

For thirty years the Australian taxi industry has been at the forefront of unreasonable credit card surcharge practices, and consumers of taxi passenger credit services have suffered the impost of excess charges by the dominant monopolistic supplier of those services.²⁸

The RBA's decision to vary the No-Surcharge Standards to allow payment schemes to limit surcharges may have significant consequences for taxi passengers if Visa and Mastercard decide to act. These credit card providers will be able to restrict the amount businesses charge customers for transactions on their cards and take action against businesses that impose excessive surcharges on customers.²⁹

The RBA could also effect change by using its powers to designate Cabcharge as a payment system. The *Payment Systems Regulation Act 1998* provides the Board with statutory powers to designate payment systems. This would enable the Board to impose an access regime, make standards, arbitrate disputes and give directions to participants in the system.

In 2001, the RBA designated the Bankcard, MasterCard and Visa credit card systems as payment systems under the Act. In 2003, the RBA determined standards for the designated schemes that lowered interchange fees, removed restrictions on merchants charging customers for the use of a credit card and imposed an access regime to facilitate entry by new players.

Taxi-specific payment instruments, such as those of Cabcharge, are not currently designated payment systems under the Act and are not required to comply with any surcharging standards or access regimes set by the RBA. The inquiry would support the designation of Cabcharge instruments as payment systems in order to impose regulations that will facilitate greater competition and potentially reduce services fee to a reasonable level.

Inquiry finding

- ➔ The ACCC and the RBA are well placed to oversee and enforce regulation of anti-competitive behaviour in the payments systems market. Ideally, regulation should be consistent between states to reduce costs for service providers.

²⁸ ATDA (June 2011), Submission to the RBA into the Review of Card Surcharging, p.2

²⁹ Malcolm Edey (2012), 'Current Agenda in Retail Payments Regulation' Speech to Cards and Payments Australasia seminar, Sydney, 20 March

The Reserve Bank of Australia's review of the No-Surcharge Standards

The RBA's Payment Systems Board is responsible for promoting the safety, efficiency and competitiveness of the payments system in Australia.

In 2011, the RBA's Payment Systems Board conducted a review of card surcharging due to concern about merchants exploiting payment processing fees as a source of revenue. The Board highlighted that excessive ad valorem surcharges were common in the taxi industry, as well as for online transactions or in circumstances where consumers feel they have few alternatives to using a scheme card. The Board also noted that the merchants who impose high surcharges tend to be those with market power.

Surcharges in excess of the cost of card acceptance and the blending of surcharges for different cards reduces the efficiency of the payment system by removing price signals to consumers about the relative cost of different payment methods.

As a result of the review, the Board has indicated that it intends to relax the standards to allow schemes (Visa and Mastercard credit and Visa debit) to limit surcharges. More specifically, the Board has stated that:

In light of the views expressed in consultation and developments in surcharging practices in recent years, the Payments System Board considers that there is a case for varying the Standards, by allowing the schemes to limit surcharges to a reasonable cost of acceptance, while at the same time ensuring the schemes' rules cannot prevent full cost recovery by merchants.³⁰

The Board specifically makes it clear in its consultation document that pressure from consumers and 'moral suasion' alone will not be enough to change the surcharging behaviour of merchants, particularly those with some market power. The Board believes that some merchants may "require an element of compulsion to bring surcharges into line with card acceptance costs".³¹

12.5.3. Regulating the service fee

While there is potential for national reforms to bring change in the future, the inquiry remains concerned about the 10 per cent surcharge currently imposed on Victorian taxi users. The fact that half of these fees overall are funnelled back to drivers, NSPs and operators strongly suggests that the 10 per cent is unnecessarily high and that there will be significant consumer benefit in lowering the charge to a level where these payments are minimal or eliminated.

The inquiry is also concerned that addressing some of barriers to entry into payments processing will not be sufficient, of itself, to lower the surcharge. The weak competition between taxi operators and networks indicates that competition between processors is likely to be much fiercer to attract networks, operators and drivers to use processing equipment (by offering higher rebates), rather than lowering prices to consumers.

While Cabcharge provided no defence of the 10 per cent surcharge to the inquiry, the inquiry did receive representations from some other payments processors arguing that reducing the allowable service fee would cause damage to competition.

CabFare told the inquiry that without access to the processing of Cabcharge branded cards and the MPTP, the rebate to operators and drivers is the principle competitive proposition of the third party players. Not only will a reduction in the surcharge do little to improve their market position, but CabFare argues that:

Varying the service fee without access by third parties to the Cabcharge cards will result in the exit from the market of Third Party EFTPOS providers and at a low level could result in the exit of Cabcharge and the return to a cash only transaction.³²

This view was echoed by other market participants who told the inquiry that competing payment processor providers would not be able to grow market share if such rebates are not offered.³³

While the inquiry acknowledges that third party EFTPOS providers rely on the surcharge to compete with Cabcharge, ultimately the inquiry finds that these competitive practices do nothing to benefit consumers.

30 Reserve Bank of Australia (RBA) (December 2011), *A Variation to the Surcharging Standards: A Consultation Document*, RBA Sydney, p. 1

31 Ibid., p. 11

32 CabFare, Presentation to Taxi Industry Inquiry, 21 February 2012

33 Ambassador Taxis, Taxilink and Cabways, Submission to the Taxi Industry Inquiry, SS233, p. 36

In addition, given the well established and widespread use of non-cash payment mechanisms, the inquiry is sceptical that taxi operators would cease to accept electronic card payments given a lower surcharge. One reason is that taxi operators and drivers derive considerable benefit from having fewer cash transactions. Another is that it would cause them considerable detriment and be inconsistent with the way other retailers have behaved when faced with no specific benefit flowing to them from card acceptance, other than the benefit it provides to their consumers.

Accordingly, the inquiry is strongly minded to recommend regulating service fees to a level that reasonably reflects the resource cost of providing this service, without taking into account the financial flows between payments processors and taxi operators and networks. The inquiry has seen no evidence to suggest that an electronic payment service fee should be greater than five per cent.

Inquiry finding

- The current 10 per cent service fee for processing electronic payments is excessive and imposes a high cost on consumers. There appears to be a strong case for regulating the service fee to a level that reflects the resource cost of providing this service – approximately five per cent of transaction value.

Chapter 13.

13. Driver quality

Key messages

- Higher quality driver service leads to high customer satisfaction. Poor experiences with taxi travel are most often associated with poor quality taxi drivers, making addressing this issue a top priority for achieving improvements in taxi services.
- Satisfaction with taxi drivers in Victoria is low, with complaints and concerns about driver quality at a high level.
- The delivery of pre-requisite driver training by industry participants is appropriate as they are best placed to impart their knowledge and expertise to prospective drivers. However, better oversight – including independent testing of drivers – is required to ensure that new drivers are properly competent and job ready.
- Better remuneration and improved working conditions are the keys to attracting and retaining good drivers, improving driver quality and restoring the community's confidence and trust in the taxi industry.
- Under the current industry structure, fare increases do not lead to a corresponding increase in drivers' incomes and do not guarantee higher driver remuneration across all shifts.
- Bailment arrangements are an unsatisfactory means of 'engaging' taxi drivers and severely curtail the industry's ability to improve the pay, service performance and conditions of drivers in any substantial way.

- Driver remuneration is low compared to the national minimum wage and the vast majority of drivers do not receive holiday or sick pay.
- The best means of building a pool of quality drivers would be for taxi operators to engage drivers as employees. However, requiring operators to engage drivers as employees will have a significant impact on the taxi industry if immediately implemented.
- Steps must be taken now to replace bailment arrangements with a new Driver Agreement that establishes fairer conditions and a greater share of revenue for drivers. This should be the mandatory approach, unless drivers are employed.
- Driver quality will also improve as a result of reforms that aim to return the taxi industry to a strong owner-driver model over time, including opening up entry to the taxi market.

Concerns about driver quality emerge repeatedly in submissions to the inquiry, in the inquiry's consultations and research, in the Department of Transport's (DOT) monitoring of customer satisfaction with taxis, in formal complaints made to the Victorian Taxi Directorate (VTD) and in media stories about taxi services in Melbourne.

Clearly, driver quality is critical to a positive taxi or hire car experience, with many consumers prepared to pay a premium for a good driver or willing to endure some inconvenience to acquire the services of a 'regular' trusted driver (or group of drivers).

This chapter sets out issues relating to driver quality identified by consumer research and submissions to the inquiry. Current entry requirements for drivers to the Victorian taxi services market are described, along with the inquiry's findings about driver quality, remuneration and working conditions. Options to improve the quality of drivers and the potential consequences of these options are discussed. Other options, such as the inquiry's proposed licensing reforms, which aim to return the industry to a strong owner-driver model over time, will also improve driver quality.¹

13.1. Introduction

Consumer research and submissions to the inquiry indicate that quality driver service leads to high customer satisfaction. Quality driver service means a driver who is courteous and helpful and who has good communication skills, driving competency, a high standard of personal presentation, and a sound knowledge of streets and locations.

Entry requirements for drivers and how drivers are engaged are identified in submissions to the inquiry as the main factors underpinning driver service. Entry requirements for drivers are set out in the Commercial Passenger Vehicle Driver Accreditation Scheme (see chapter 7), one component of which is driver training. How drivers are engaged (for example, as bailees or employees) affects the remuneration, working conditions and the legal accountability of drivers – all factors with an influence over driver quality.

The inquiry's research indicates that while barriers to entry (such as training) are a component in driver quality, too much reliance is placed on this regulatory measure, particularly when training alone is unlikely to address poor behaviour such as a driver's unwillingness to accept a short fare or a driver's poor presentation, both of which are often raised as complaints by customers.

The inquiry's analysis shows that better remuneration and improved working conditions are keys to attracting and retaining good drivers. As noted in chapter 5 and as discussed in chapter 23, poorly paid drivers have little at stake in the industry and are less incentivised to comply with regulatory and taxi requirements. More broadly, the inquiry's investigations indicate that improving accountability for the provision of taxi services will encourage the delivery of consistent high quality services and that more competition within and between the taxi and hire car sectors will generate incentives for all industry participants, including drivers, to provide a high quality service for customers.

¹ See chapters 10 and 23 for discussion about these reforms and their implications

13.1.1. Consumer research

Taxi drivers are identified by customers as the most important aspect of the taxi travel experience. Quarterly customer satisfaction research conducted by the DOT reports low levels of overall satisfaction with taxi services compared with other modes of public transport. The research consistently finds that taxi drivers are the primary factor influencing the overall satisfaction level.² The research also shows that satisfaction with taxi drivers for the 2010/11 financial year was 62.3 out of 100, with satisfaction with the overall service being slightly higher at 65 out of 100³.

The most important customer concerns in relation to drivers are:

- Knowledge of streets and locations
- Courteousness and helpfulness
- Having good communication skills
- Having good personal hygiene.

As shown in Table 13.1, satisfaction with taxi drivers has remained low over the last five years.

Additional consumer research commissioned by the inquiry asked survey participants a series of general questions about taxi drivers and, in particular, their expectations of drivers. The research confirms that a customer's poor experience with taxi travel is often associated with taxi drivers. As one taxi user observed:

It's hard to separate a good driver from a good experience.⁴

The research found that survey respondents believe that taxi drivers generally do not know where they are going (5.1 out of 10) and do not value customers highly (5.1 out of 10). Only half of the respondents noted that they could trust drivers to take them via the most direct route (5.0 out of 10).⁵

The research also found that respondents expected drivers to be courteous and helpful (8.7 out of 10), clean and presentable (8.8 out of 10) and to have acceptable personal hygiene standards (8.8 out of 10).

In general, customers' expectations with regard to the services provided by taxi drivers were higher than the service actually being delivered by drivers.

13.1.2. Submissions and consultations

Submissions to the inquiry commented on a number of aspects of driver performance as well as on the regulatory regime and industry structure that influences that performance.

Driver performance

The inquiry received numerous submissions from taxi users calling for measures to improve driver performance. The inquiry's consultations also revealed a high level of dissatisfaction with driver quality. The main issues in relation to driver performance reported by taxi users, businesses and community organisations are set out in the following section.

Table 13.1 Customer satisfaction with taxi drivers, 2006/07 to 2010/11

	2006/07	2007/08	2008/09		2009/10	2010/11
			Jul 08-Mar 09	April-Jun 09		
Taxi Drivers	69.8	68.0*	69.6	61.4	60.4	62.3^

* statistically significant decline from the previous year

^ statistically significant improvement from the previous year

2 Wallis Consulting Group (July 2011), Customer Satisfaction Monitor Survey Metropolitan Taxis Report, supplied by the DOT. The regression analysis allocated taxi drivers an importance factor of 30 out of 100. Secondary factors were Travel experience (IF = 18) and Price (IF = 17)

3 Figures are for a 0-10 point scale. Since April 2009, a 0-10 scale has been implemented to generate the Customer Satisfaction Indicator (CSI). This differs from the 6-point scale used prior to April 2009

4 Ipsos Social Research Institute (2012), Op. Cit., p.80

5 Ibid.

Drivers with poor local knowledge

There is considerable dissatisfaction with driver knowledge of key routes in Melbourne and major city landmarks. In particular, city-based businesses report regular complaints from customers and clients about drivers lacking knowledge of common city destinations. Many taxi users report an over-reliance by drivers on GPS units to find their way around Melbourne, which often results in circuitous trips for passengers.

Short trip fare refusals

Short trip refusals by taxi drivers feature prominently in submissions and comments to the inquiry. The City of Melbourne, Crown Casino, Melbourne Airport and others report feedback from taxi users about drivers:

- Being discourteous when asked to accept a short fare
- Attempting to extract a fee above the metered rate for a short journey
- Trawling the streets for longer fares near taxi ranks where requests for short trips are known to be common.

Community groups highlight the impact on people with a disability and older people of the reluctance of drivers to accept short trip fares:

On many occasions, taxi drivers have refused the people we assist access to services on the basis that they are short fares. They actually ask where the individual is travelling before allowing them in the vehicle.⁶

The City of Melbourne points out that the reluctance of drivers to accept short trips may have an adverse effect on perceptions of Melbourne as a good place to do business:

The ability and more importantly a preparedness to move across and within the city on short trips for business people is a significant benefit to business.⁷

Other negative experiences

Taxi users also report a range of other negative experiences with drivers, including:

- Drivers arriving at pick-up addresses only to drive off rather than wait for customers to exit their homes or workplaces
- Unsafe and poor driving practices such as distracted driving (using a mobile phone or GPS while driving), tailgating or speeding

- Drivers refusing fares at change of shift
- Drivers with a limited understanding of English
- Drivers with poor personal hygiene or who are not in uniform or neatly dressed
- Drivers refusing to accept Cabcharge vouchers or issue receipts
- Rude and discourteous drivers
- Drivers who refuse to follow specific route requests or directions
- Dirty cabs and cabs smelling strongly of cigarette smoke or food.

Inquiry survey of taxi drivers

More than 450 current Victorian taxi drivers completed the inquiry's online survey. Respondents included full time and casual drivers, and day shift and night shift drivers.

The main findings from the survey were:

- The majority of drivers are given permission by their operators to take time off when they are sick (about 86 per cent) or when they want to take holidays (about 83 per cent) but only 0.05 per cent of taxi drivers surveyed received holiday or sick pay.
- The average age of a Victorian taxi driver is 41 years.
- More than 50 per cent of current taxi drivers are born overseas, with the majority of drivers born in India. The average time overseas-born drivers have been living in Australia is about 18.7 years.
- The average number of years taxi drivers have been accredited is about 12 years and the average number of years of taxi driving experience is 11 years.
- The most common reasons people choose to become a taxi driver are income/ability to earn extra money, enjoy providing customer service/working with people, and enjoying the flexibility of driving taxis (hours and locations).

Note: These results contradict the concrete data the inquiry has on driver turnover and driver experience, suggesting that experienced owner-drivers are over-represented in the driver survey respondents. This highlights the point that it is difficult to engage with 'bailee' drivers who make up a large proportion of the driver population, many of whom are short-term or part-time drivers – and often overseas students.

⁶ Travellers Aid, Submission to the Taxi Industry Inquiry, SS132, p.4

⁷ City of Melbourne, Op.Cit., p.10

Taxi users with a disability

Many taxi users with a disability, and their advocates and carers, told the inquiry that driver performance is critical to a reliable and safe taxi service. Many of these taxi users report highly unsatisfactory experiences with drivers, including rude and discourteous drivers and drivers with poor communication skills. Nearly half of the respondents to a 2010 survey of taxi users with special needs conducted by the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) reported feeling unsafe when using taxis.⁸

Retaining quality drivers

Many respondents to the inquiry felt that insufficient action is being taken by the industry to address consumer concerns about driver performance. The DOT told the inquiry:

The taxi industry appears to have failed to develop effective strategies to retain and reward good drivers. Instead, the industry appears to have focused on strategies which actually facilitate a surplus supply of temporary drivers.⁹

Submissions and comments to the inquiry from a number of experienced drivers echo these concerns. These drivers say there has been a significant decline in standards of driver etiquette, appearance and courtesy, with little action taken by the industry to recognise, value and retain quality drivers.

Regulatory and industry structure

Respondents to the inquiry identified a number of issues relating to the current regulatory regime, industry structure and industry practices as having a detrimental impact on driver quality and performance.

Driver training

Taxi users and many industry participants believe there is considerable scope to improve driver accreditation and training. A number of experienced drivers have also commented that they would like to see substantial improvements in training for drivers and closer monitoring of the progress of new, inexperienced drivers. Concerns reported to the inquiry include:

- The delivery and assessment of driver training by organisations with close associations with the taxi industry is perceived to be compromising the independence of the process, creating potential conflicts of interest in the assessment of drivers, including assessments not being conducted properly and applicants being passed despite failing to attain the required competency standards.
- There are inconsistencies between driver training courses: in particular, some drivers appear to be completing their training very quickly, suggesting that the training being provided may be inadequate.
- In some critical areas, such as local driving experience requirements, Victoria's standards for driver accreditation are too low.
- The training curriculum is not providing adequate training or sufficiently stringent testing for English language proficiency and knowledge of Melbourne, and does not have a strong enough focus on customer service and disability awareness.
- Drivers outside the metropolitan taxi zone are not required to undertake the driver training course.
- Training organisations receive no feedback from the VTD about whether drivers trained by them are performing competently.
- Inadequacies in the current training system undermine the bargaining power of knowledgeable, experienced drivers who can be easily replaced by newer drivers, many of whom may not have received proper training.

Driver status, remuneration and working conditions

Many taxi drivers who responded to the inquiry expressed dissatisfaction with their remuneration and working conditions, with most feeling that they work long hours for very low rates of pay. This is particularly the case for drivers who do not own the taxis they drive. These views were also held more broadly, with many members of the public believing that any changes to taxi services should improve pay and conditions for drivers.¹⁰

⁸ VEOHRC (2010), *Time To Respond: three years on*, Melbourne, p.9

⁹ DOT, Op. Cit., p.11

¹⁰ See for example submissions from City of Melbourne, SS166, TDAV, SS135; and Platinum Taxis, SS292

Those taxi users and organisations who support improved pay and conditions for drivers believe this will enable the industry to attract and retain better drivers, with flow-on effects for service quality overall. The Taxi Drivers' Association of Victoria notes (TDAV) that, as well-remunerated drivers have no incentive to chase 'big' fares, these flow-on effects will include less short trip refusals, fewer drivers spending long periods on the Melbourne Airport rank and more wheelchair accessible taxis (WATs) and high occupancy vehicles (HOVs) being available for passengers with a disability.¹¹

Existing bailment arrangements for drivers (which form the basis for driver earnings) are criticised strongly by some industry participants, unions and others as being an inappropriate way of regulating engagement of drivers in the taxi industry. The Essential Services Commission (ESC) has advised the inquiry of the widespread use of verbal agreements between operators and drivers.¹²

A number of respondents to the inquiry also call for action to improve career paths in the taxi industry and to recognise and retain experienced drivers. For example, the City of Melbourne argues that improving the status of drivers will improve public perceptions about the industry, enhance driver safety and give drivers an incentive to provide high quality services. The council sees drivers as 'ambassadors for the city' and believes that the diversity of multilingual drivers is a positive attribute of the taxi industry that could be better promoted and utilised.¹³ Other respondents agree that the diversity of Melbourne's taxi drivers is not valued sufficiently or used effectively.

A number of respondents suggest that taxi drivers should be recognised as employees, noting that the current arrangements deny drivers access to standard employee benefits such as regulated working hours, minimum rates of pay, sick leave and superannuation.

Other stakeholders generally support the continuation of bailment arrangements, with varying degrees of support for the mandating of a statewide model bailment agreement that guarantees a minimum revenue share for drivers.¹⁴ There is little support from these stakeholders for drivers becoming employees. Some of these stakeholders also see low fare levels as having an impact on driver remuneration and reject the view that fare increases will not flow through to drivers.

Drivers, taxis and tourism

Taxis are a vital element in a successful Victorian tourism and events industry, and taxi drivers play an important role in visitors' first impressions of Melbourne and Victoria. In their joint submission to the inquiry, the Victorian Employers' Chamber of Commerce and Industry (VECCI), the Victorian Tourism Industry Council (VTIC) and the Victorian Events Industry Council (VEIC) note:

For visitors to Victoria, in particular international visitors, there is a great deal of trust invested in the taxi driver and an expectation that the driver will be able to bring them safely and efficiently to their destination.¹⁵

Similarly, the City of Melbourne observes:

First and last impressions of Melbourne are critical to a visitor's experience of Melbourne and to their decisions about returning to future visits. Ultimately, first and last impressions are key contributors to the strength of the city's visitor economy. For many visitors, a taxi journey is their first experience of Melbourne and Melburnians. For some visitors, it is a warm, welcoming journey with drivers who act as ambassadors for the city, keen to share their local knowledge of the many things to see and do. For other visitors, it can be a less pleasant journey.¹⁶

The strong view from many individual businesses and industry groups is that the quality of taxi drivers and the standard of taxi services regularly fall short of the business community's expectations and requirements. For example, Crown Casino told the inquiry:

The lack of consistent quality in the taxi service in Melbourne is exposed when comparisons are made by our international guests and even interstate guests.¹⁷

¹¹ TDAV, Submission to the Taxi Industry Inquiry, SS135, p.11

¹² ESC, Submission to the Taxi Industry Inquiry, SS151, pp. 21-22

¹³ City of Melbourne, Op. Cit., p.10

¹⁴ See for example submissions from ESC, SS151; and Ambassador Taxis, Taxilink and Cabways, SS233

¹⁵ VECCI, VTIC and VEIC, Submission to Taxi Industry Inquiry, SS182, p.1

¹⁶ City of Melbourne, Op. Cit., p.6

¹⁷ Crown Casino, Op. Cit., p.2

The May 2011 *Survey of Tourism Performance and Outlook* by the VTIC included special questions relating to the taxi industry. The main concerns identified by the businesses surveyed were:

- Taxi availability for major events – Almost half of the businesses surveyed said that hailing a taxi prior to an event was very difficult and almost 70 per cent indicated it was very difficult after the event. This was seen as having a negative impact on the overall experience of event-goers.
- Taxi availability generally – Nearly 80 per cent of businesses believed there were not enough taxis available for hailing, with a similar majority agreeing that it was difficult or very difficult to hail a taxi on weekend nights after midnight.
- Service quality – More than half of the survey respondents felt that the quality of the taxi industry has an impact on their business, with 78 per cent of these believing the impact to be negative. Nearly 70 per cent indicated that, from their own experiences, taxi drivers do not demonstrate sound geographical knowledge of the areas they service.¹⁸

In February 2011, the Department of Transport asked the Australian Hotels Association to conduct a taxi customer satisfaction survey of Melbourne accommodation hotels. Of the 30 hotels surveyed:

- 90 per cent regularly had guests complain about inadequate availability of taxis, especially during periods of peak demand and driver shift change over
- 93 per cent of hotels reported a shortage of taxis outside their hotels and long delays after calling for an immediate pick-up
- 87 per cent of hotels said that the worst service problems they encountered were rude taxi drivers and drivers complaining or refusing service when they get a short fare in the CBD.¹⁹

Business respondents to the inquiry have called for much closer engagement between the tourism, events and taxi industries. These views are summed up in correspondence to the inquiry from Mark Stone, VECCI's Chief Executive:

*While the taxi industry has not traditionally considered itself to be part of the tourism and events industries, it is hard to imagine one without the other. Over time we would hope this nexus is better understood and that drivers become more empowered to become advocates for their city...*²⁰

13.2. Entry requirements for drivers

The barriers to entry to being a taxi driver are relatively low, at least in comparison to most other occupational qualifications. The specific requirements imposed upon drivers under the Commercial Passenger Vehicle Driver Accreditation Scheme are outlined in chapter 7. The main issues raised with the inquiry about these requirements relate to the current specifications for driver training.

13.2.1. Training

Under the *Transport Compliance and Miscellaneous Act 1983*, the licensing authority has specified that all applicants for metropolitan taxi and hire car driver accreditation must complete the taxi driver training package, which comprises specified units of Certificate II in Driving Operations (a nominal 117 hour course).

Since 2008, as part of the introduction of the driver accreditation scheme, all metropolitan applicants are also required to pass the 'Knowledge of Melbourne' assessment and an English literacy assessment.

All applicants for driver accreditation must have held a Victorian driver licence for a minimum of 12 months. Alternatively, applicants may complete an independent driving assessment (IDA) with an approved driving instructor. In 2009, in response to persistent concerns about the driving ability of newly accredited drivers, the VTD introduced a requirement that applicants who have held a Victorian driver licence for less than 12 months must also attend an interview at the VTD to demonstrate that they have a basic understanding of driving responsibilities in Melbourne.

This additional requirement led to a significant slowing of applicants passing through this accreditation pathway, with many applicants unable to satisfy the VTD assessment. The inquiry understands that the VTD has since modified the interview requirement by shortening the interview to three questions. The results of the interview are provided to the relevant Registered Training Organisation (RTO) to assist in identifying areas for review. More recently, the VTD has also introduced a quality assurance program for RTOs.

These changes to the entry requirements for taxi drivers demonstrate that the licensing authority has tried a number of times to address concerns about the competency of drivers entering the industry. Given that taxi users in Melbourne continue to appear dissatisfied with driver quality, it is clear that these measures have not been successful.

¹⁸ Victorian Tourism Industry Council (May 2011), *Survey of Tourism Performance and Outlook*, p.2

¹⁹ DOT, Op. Cit., p.56

²⁰ VECCI, VTIC and VEIC, Op. Cit. Covering letter from Mark Stone

Applicants for taxi and hire car driver accreditation outside the metropolitan area are not required to complete the training course. However, informal training is commonly delivered for new taxi drivers in regional areas by local network service providers (NSPs). Drivers who intend to drive a WAT in any region within Victoria are required to complete a unit in providing WAT services to passengers with a disability.²¹

National training framework

The existing training package for metropolitan taxi drivers has been in place in its current form since July 2008. The course (formerly known as the Course in Taxi Driving) was elevated into the national training framework in 2010 and now forms the basis of the standard requirement for applicants seeking to obtain authorisation as a taxi driver in all Australian states and territories.

This work was supported at the national level by the Council of Australian Governments process to achieve greater alignment of occupational licences across Australian jurisdictions. Although the initiative does not achieve national licensing for taxi drivers (as is intended for other occupations such as plumbing and building licences), it aims to improve confidence in the mutual recognition of taxi driver accreditation by authorities Australia-wide. Agreement on national competencies is said to achieve this objective by avoiding 'jurisdiction shopping', as well as improving labour mobility by standardising the main entry requirements for authorisation across Australia (that is, those that are the most time consuming).

The inquiry understands that the work undertaken in 2008 to introduce the national training framework resulted in the Victorian curriculum being used as a model for the development of the national competencies. This meant that the implementation of the national framework involved only minimal amendments to the training package in Victoria, while other states had to make more substantial changes.

Training curriculum

The Transport and Logistics Industry Skills Council (TLISC) was engaged to develop the prescribed competencies under the national training framework, following an assessment of the skill required for taxi driving by state and territory regulators. The TLISC's view is that the competencies have been thoroughly mapped against the relevant skill requirements and that the current training curriculum should address the skill requirements for taxi driving.

Despite the specific concerns regarding driver competencies identified through customer satisfaction research and highlighted in submissions to the inquiry, the current training curriculum does appear to provide adequate coverage of these issues. For example, within the unit of competency titled 'Identify major roads, services and attractions', many concerns regarding local knowledge are addressed. This unit is allocated a nominal 40 hours and the elements of the unit include:

- Locate all major roads, highways and suburbs in a metropolitan area
- Locate transport interchanges, jetties, ports, stations and terminals
- Identify main public services and facilities
- Locate key features in a central business district.

Another example is the coverage of disability awareness competencies within the specified training units. The 'Provide taxi-cab customer service' unit covers skills such as establishing effective communication, identifying and assessing the needs and expectations of different customers, meeting the identified customer requirements, and dealing with difficult customer situations. The unit is allocated a nominal 10 hours and the elements are:

- Establish contact with customers
- Present a positive organisational/professional image
- Identify the needs and expectations of different customers
- Meet the identified customer needs and expectations
- Deal with difficult customer situations
- Apply ethical behaviour.

Within the curriculum of this unit, trainers are provided with specific guidance to ensure that students demonstrate competencies relating to providing services to customers with special needs, such as identifying and responding to the needs of customers with limited mobility.

Each of the national training framework competencies incorporate elements and performance criteria that appear adequate 'in theory' to address the recurrent issues raised by customers. Table 13.2 lists the individual units that are covered under the national training framework for taxi drivers.

²¹ Funding is provided by the Victorian Government to cover the fees for this course and a payment of \$80 is paid to persons completing the course to cover additional out-of-pocket expenses

Table 13.2 Certificate II in Driving Operations, Taxi Units and Wheelchair Accessible Taxi Services

Unit code	Unit name	Nominal hours
TLIC9071	Drive Taxi-cab	40
TLIB9009A	Use Communication Systems in a Taxi-cab	5
TLIF7209A	Comply with Safety and Security Procedures	12
TLIH407B	Identify Major Roads, Services and Attractions	40
TLII1909A	Provide Taxi-cab Customer Service	10
TLIL6009A	Complete Induction to the Transport Industry	5
TLIQ1609	Carry out Financial Transactions and Maintain Records	5
TLIC4009A *	Provide Wheelchair Accessible Taxi Services to Passengers with Disabilities	40

* This unit is separate to the general driver training and is only undertaken by those drivers wishing to drive WATs

Table 13.3 Registered Training Organisations authorised to conduct driver training

Registered Training Organisation	Industry association
Yellow Cabs (Vic) Pty Ltd (Yellow 13CABS Driver Academy)	13CABS – Cabcharge Australia
Driver Education Centre of Australia (DECA Training)	Independent of industry, but provides training arrangement for Silver Top Taxis
Technical Advanced Training	Independent of industry, although understood to have minimal market share in delivering driver training
Cabways Pty Ltd (trading as Taxi Staffing Service)	Large taxi fleet operator (120 cars) that mostly trains drivers to supply own fleet

Delivery of training

In vocational education and training, people are considered to be competent when they are able to apply their knowledge and skills to successfully complete work activities in a range of situations and environments, in accordance with the standard of performance expected in the workplace.²² Given that the content of the current training course appears to address the concerns of taxi regulators and users and yet concerns remain as to the quality of new drivers, it may be that the delivery of the training is not meeting the expected standards.

The driver training package is conducted by RTOs, the majority of whom in Victoria have known links to the taxi industry. A list of RTOs authorised to conduct driver training and their other industry involvement is set out in Table 13.3.

In many industries, organisations choose to become RTOs to deliver nationally recognised training to their employees. This type of training body is known as an 'Enterprise RTO' and offers some distinct advantages to independent training colleges or schools. For example, these organisations are often best placed to impart knowledge to students as their in-house expertise can be used to match training to practical situations.

However, unlike many Enterprise RTOs in other industries, taxi drivers are not considered employees and the training program is a legislative 'hurdle' of the driver accreditation scheme. As a result, the benefits that industry participants receive from conducting driver training may also include course fees paid by candidates and a steady supply of labour. Despite these potentially competing benefits, taxi specific Enterprise RTOs remain well placed to ensure that new industry entrants are provided with the appropriate skills to drive a taxi. However, given the extent of concerns about driver quality, the inquiry considers that additional scrutiny of training delivery is prudent to ensure that these possibly competing objectives are appropriately managed. Imposing greater responsibilities on taxi operators for the conduct of their drivers is also likely to improve the outcomes of the training as this will see training delivered more consistently with the Enterprise RTOs model found in other industries where the employer is the greatest beneficiary of the training.

²² Victorian TAFE Association, accessed 10 January 2012 at www.vta.vic.edu.au

RTOs are regulated by the Victorian Registrations and Qualifications Authority (VRQA) or the more recently formed Australian Skills Quality Authority. Scrutiny of the practices of taxi RTOs has been limited in the past. The last strategic audit of RTOs took place in 2009 and then only at the intervention of the then Minister for Public Transport. While the VTD has a role in specifying the training to be completed under the driver accreditation scheme, the VTD does not have explicit audit powers with regard to RTOs. However, the inquiry has been told that the audits conducted in 2009 involved the assistance of the VTD.

The strategic audits identified a number of deficiencies, with one training provider being found to be non-compliant with 10 of the 11 elements that were assessed. The inquiry understands that the RTO had a high market share in the driver training market, but has since ceased conducting taxi driver training. The other RTOs were found to have varying degrees of compliance against the audit criteria. The inquiry has been informed that those deficiencies have since been rectified to the satisfaction of the VRQA; however, it should be noted that follow-up audits have not been conducted since this time.

Despite the outcomes of the audits, a high number of taxi users and industry participants continue to raise concerns with the practices of some RTOs (see section 13.1.2 above). Taxi users with a disability and advocacy organisations express particular concerns and have provided numerous examples to the inquiry of instances where drivers have failed to adequately communicate with or assist mobility disadvantaged passengers.²³

The prevalence of these types of complaints is disturbing given the coverage of these competencies within the driver training curriculum. It may be that the emphasis applied within the training is not consistent with the broad range of taxi customers and their particular needs. The RTOs, the regulator and disability advocacy groups may need to work together on this issue to ensure that training remains relevant and that new drivers are provided with exposure to and awareness of the needs of different customers.

Examination of driver competency

Ongoing data relating to the quality of driver training has been difficult to obtain. However, the VTD has recently commenced a Driver Accreditation Quality Assurance (QA) Program, which randomly selects training graduates to undergo a further 30 minute assessment. While somewhat inconclusive, the results of the QA program show that, while driver training is addressing areas of deficiency for new metropolitan applicants, there continue to be areas where the outcomes from training are less than optimal. In particular, quality assurance results are lower in some units where the actual hours of training provided are less than the nominal hours set for the unit. The VTD is using the data obtained from the QA program to alert RTOs to training deficiencies.²⁴

The inquiry acknowledges that the QA program conducted by the VTD is a step in the right direction towards better oversight of driver training; however, it is unlikely to be sufficient given that the assessment is conducted randomly and does not allow enough time to adequately cover the subject matter of a 117 hour course.

In addition to the assessment of competencies by RTOs, a more comprehensive independent examination regime could provide both greater oversight of enterprise RTOs and a higher degree of confidence by taxi users that drivers are 'job ready'. Such an examination will need to assess applicants against the competencies of the current training course. As a minimum, the examination will need to incorporate assessment of English literacy, knowledge of local landmarks, and general customer service.

The introduction of an independent examination should not significantly increase the barrier to driver entry, especially in relation to the cost to the applicant and the time taken to sit an exam. To some extent, this burden could be lessened by shifting some of the existing training requirements into this examination, such as the English Literacy requirement and Knowledge of Melbourne assessment.

The cost burden of the exam could be lessened by a shared funding model where the applicant is charged a subsidised amount and the shortfall met by an industry contribution collected through licence fees. This model also acknowledges that the industry benefits from a supply of drivers.

²³ These views are canvassed in more detail in chapter 15

²⁴ Victorian Taxi Directorate (December 2011), *Driver Accreditation Quality Assurance Program October – December 2011*, Department of Transport, Melbourne

Limitations of driver training

While a great deal of emphasis is placed on the importance of training to ensure taxi drivers deliver quality services, issues with driver performance persist. It has been suggested to the inquiry that possibly too much reliance is placed on this regulatory measure. In the main, industries with prerequisite qualifications for entry supplement these requirements with graduate programs, mentoring or appropriate levels of supervision to ensure that the skills and knowledge obtained through training are consolidated into sound practice. The fact that drivers are predominantly not employees inhibits this kind of ongoing competency development, with drivers not under the direct control of more experienced industry members. In addition, the high rate of turnover of drivers also reduces the likelihood of customers encountering experienced drivers.

Many submissions received by the inquiry also point to driver training as a means of addressing behavioural issues with drivers. The inquiry acknowledges that training may assist in changing behaviour: however, training alone is unlikely to be successful in the absence of incentives to encourage drivers to moderate their behaviour in a particular way. For example, knowledge of landmarks and locations or the ability to speak English are competencies that can be addressed through training, while courteousness and helpfulness, personal hygiene and a willingness to engage in appropriate conversations are aspects more closely related to personal conduct.

Training is unlikely to have a significant impact in influencing the conduct-related aspects of driver behaviour. This highlights that training is just one factor in improving driver quality.

Taxi driver training in country and urban areas

As mentioned earlier, country and urban taxi drivers are not required to complete the Certificate II in driving operations in order to obtain their accreditation. Apart from the requirements specific to driving a WAT vehicle, country and urban drivers are not required to complete any training as part of the accreditation scheme. Despite this, the concerns about driver quality in those areas do not echo those experienced by customers in the metropolitan region. The inquiry considers that there are a number of factors that contribute to higher satisfaction with drivers in regional areas and these include: lower driver turnover; engagement of local residents rather than transient labour forces (such as international students) to drive taxis and; a higher degree of supervision of drivers from licence holders (who are generally also the taxi operator).

While extending the metropolitan training regime into country areas may seem a logical recommendation, the inquiry has not been able to establish a case that justifies this increase in regulatory burden at this time. Rather, it appears that formalising existing common practice is most appropriate, that is, placing the onus on taxi operators to ensure that their drivers are competent to drive their taxi. Further, applying pre-entry experience requirements uniformly for all accredited drivers (for taxis and hire cars) will provide operators with greater confidence as to the driver they are engaging (see 13.2.2).

Mentoring and ongoing training

At meetings held by the inquiry during regional visits, taxi operators highlighted a current practice in regional cities of on-the-job driver mentoring (referred to as 'jockeying'). Jockeying involves an experienced driver (or operator) travelling in the taxi with the new driver, providing feedback and advice on the new driver's performance. Although not explicitly provided for under the current regulations, regional operators highlighted the value of the practice in inducting new drivers. A combined submission to the inquiry from Ambassador Taxis, TaxiLink and Cabways also proposed experienced drivers 'buddying' with novice drivers, suggesting that retired drivers could return to the industry as mentors to new drivers.²⁵

Acknowledging that some customers may feel uncomfortable in hiring a taxi where an additional person is in the vehicle, regional operators described simple controls to ensure that the practice does not impede the comfort or safety of customers. These controls include restricting jockeying to daylight hours; giving customers the option before they hire the taxi of having the 'jockey' leave the vehicle; and ensuring that the driver or jockey explains the practice clearly to the customer when they enter the cab. Provided these controls are implemented, the inquiry is supportive of this type of industry-led improvement to delivery of better quality services.

The Victorian Taxi Association (VTA) has expressed the view that the current training package is adequate, but could be further strengthened by requiring drivers to complete additional continuing professional development units during their first year of driving.²⁶ The VTA suggests that these units could include seminars from the industry regulator, Melbourne Airport, Worksafe and Guide Dogs Victoria or Seeing Eye Dogs Australia.

²⁵ Ambassador Taxis, Taxilink Pty Ltd, Cabways Pty Ltd, Op. Cit., p.44

²⁶ VTA (2011), *Letter from the VTA to the Minister for Public Transport – 'Taxi Driver Training'*, 8 September 2011, provided to the Taxi Industry Inquiry by the VTA

The inquiry notes that while continuing professional development will assist in skill consolidation, it will impose an additional cost on drivers who are most vulnerable to increased cost pressures. Currently, the benefits of such a proposal do not appear to outweigh the increase in regulatory burden on drivers. However, under a model where drivers are better remunerated and given incentives to deliver quality services, the cost of ongoing training may be appropriate.

13.2.2. Pre-entry experience requirements

There are two pathways for prospective drivers to satisfy the prior driving experience prerequisite for driver training. The first is that candidates demonstrate that they have held a Victorian driver licence for a minimum of 12 months. Alternatively, prospective drivers can successfully complete an IDA. The IDA is a 45-point practical (in-car) driving assessment conducted with an authorised driving instructor, typically completed in less than an hour. The assessment is based on 'real world' experiences of taxi driving and includes demonstration of aspects such as handling of taxi-sized vehicles and successfully completing a hook turn.

In recent years, the number of applicants seeking taxi driver accreditation with less than 12 months local driving experience has increased. Currently around 60 per cent of new applicants have held a driver licence in Australia for less than 12 months.²⁷ There are reports that IDAs are frequently completed in well under an hour and the inquiry understands that the VTD has concerns as to the true 'independence' in the delivery of these assessments.

The inquiry considers that there is a case for taxi driver applicants to demonstrate some level of experience prior to commencing work as a taxi driver. This is particularly important given that the work of a taxi driver is conducted in an environment with a high degree of autonomy and where direct supervision of drivers is difficult.

The IDA does not appear to be an appropriate substitute for the skills and knowledge that come with a minimum period of driving experience. While the IDA may be able to assess a person's competency in handling a vehicle safely (and is therefore effectively a duplication of the private driver licensing scheme), it does not demonstrate that the person has an understanding of the variables of local driving conditions or other cultural norms that might be the outcomes sought from requiring a minimum period of driving experience.

The requirement to have held a driver licence for a period of time is also not without its problems in that it is not a perfect measure to ensure experience is gained by taxi driver candidates prior to undertaking training because holding a licence does not mean that a person has driven – or indeed has even resided – in Australia during that time. However, the inquiry acknowledges that the driver licence mechanism for assessing experience does offer some regulatory efficiency in that it can be easily administered by the licensing authority and has a higher degree of integrity than other mechanisms, such as a log book.

Further, as it currently stands, the requirement for holding the driver licence is a prerequisite to driver training. This means that, in all likelihood, drivers have held their licences for longer than 12 months at the time of issue of their accreditation. It is not clear that this is actually necessary in order to ensure that drivers have the experience needed to meet community expectations. The inquiry considers that it might be more appropriate for this requirement to be moved from being a prerequisite to training to becoming a final hurdle for the issue of driver accreditation. This would mean that applicants are free to complete the training while they accrue the necessary experience.

A lesser period could be considered, such as occurs in South Australia where six months is the minimum pre-entry experience required. However, this will not provide the new driver with experience across the range of seasons and the full annual calendar of cultural events. Shifting this requirement so that it can be achieved concurrently with the training will lessen the burden to some extent.

²⁷ Based on data provided to the inquiry by the VTD

Inquiry findings

- While training is an important element in building a pool of quality drivers, it is not as critical a factor as driver remuneration and working conditions.
- The delivery of training by Enterprise RTOs is appropriate in the context of people seeking to drive taxis. However, training delivered through these organisations must be considered 'high risk' and better oversight of this training is required by training regulators, with the assistance of the Taxi Services Commission (TSC).
- Significant concerns regarding the quality of drivers are more than likely to persist while examination of new drivers is not truly independent from the industry. Government will need to intervene to address this issue.
- The current curriculum for taxi drivers is adequate to address the identified skill requirements for taxi driving, provided that trainers are attuned to the concerns of passengers and that emphasis within the course content is flexible enough to match changing passenger expectations as these are identified.
- Specific attention is required to ensure proper coverage and emphasis in driver training on identifying and meeting the needs of customers with a disability. The RTOs, the regulator and disability advocacy groups could work collaboratively to ensure that training remains relevant and that new drivers are provided with exposure and awareness of the needs of a wide range of customers.
- The right balance between experience and training is required to deliver a supply of taxi drivers that will meet reasonable community expectations. The imposition of a minimum driver licence period is appropriate to ensure drivers have a minimum level of experience. A period of 12 months should be considered as the minimum requirement to achieve this objective.
- The IDA has proven to be problematic and is not a reasonable proxy for new entrants demonstrating local experience. Its removal would enable entry requirements in Victoria to be more consistent with other states.
- Mentoring and professional development post-training and accreditation can contribute to better driver performance. Mentoring options such as jockeying may add value and the industry should be encouraged to take these up further.

What's happening in other places?

The requirement to have held a driver licence for a minimum period is a prerequisite in all other jurisdictions in Australia. Most other states require drivers to demonstrate local driving experience of between one and three years, with South Australia requiring a minimum six month period and Western Australia requiring a three year minimum.

While South Australian applicants are required to hold a driver licence for a minimum period of six months, a recent article in the local media highlighted ongoing concerns with taxi drivers in Adelaide and reported that many do not pass local taxi driver training requirements.²⁸

Requirements in other states and territories vary between one and two years. The table below provides a comparison of all Australian jurisdictions.

Table 13.4 Interstate comparisons of pre-entry experience requirements

Less than 12 months	Must have held driver licence for one year	Must have held driver licence for two years	Must have held driver licence for three years
Victoria – if complete IDA	Australian Capital Territory	Northern Territory	Queensland
South Australia (six months)	New South Wales	Tasmania – for applicants under 20 years	Western Australia
	Tasmania – for applicants older than 20 years		
	Victoria - if IDA not completed		

²⁸ The Advertiser (13 June 2011), 'Taxi drivers hit language barrier', accessed 11 January 2012 at www.adelaidenow.com.au/ipad/taxi-drivers-hit-language-barrier/story-fn6bqphm-1226073928901

13.3. Engagement of drivers

Although the prevailing assumption amongst many industry participants is that drivers are bailees, it is likely that some operators currently engage their drivers as independent contractors or employees. Factual scenarios may exist where a court will find an employment relationship exists between a taxi operator and a driver, depending upon the particular circumstances. For example, a court is less likely to find an employment relationship exists where there is a written and signed bailment agreement or where the operator does not retain a high degree of control over the driver (for example, as occurs in larger metropolitan areas as distinct from smaller country towns).

13.3.1. Bailment arrangements

Several submissions to the inquiry are critical of the use of bailments to regulate the engagement of drivers in the Victorian taxi services market.

The Federation of Community Legal Centres is of the view that:

This vague and anachronistic legal concept is totally inadequate as a framework for regulating employment in the Victorian taxi industry, in the twenty-first century.²⁹

The TDAV argues for:

...taxi drivers to be recognised for what they are: employees and not bailees or leaseholders.³⁰

On the other hand, the ESC sees certain benefits in a bailment arrangement over employment:

This [bailment] arrangement provides greater flexibility, cost savings, and greater incentives to maximise revenue, for both the driver and operator. For example, an agreement can be made on whatever terms are preferred by the parties, without the legislative restrictions imposed on an employment agreement.³¹

Commercial arrangements between bailee drivers and operators are not regulated by any industry body or by government. However, regulations require operators to keep a record of the contents of each bailment agreement with each driver to whom the taxi is bailed that is either in writing or evidenced in writing.³²

Model bailment agreements

Both the VTD and the VTA have published model bailment agreements. Under these agreements, taxi drivers are not afforded employee benefits such as regulated working hours, minimum pay and leave entitlements.

Data provided by the VTD indicates that the VTD model bailment agreement (both the final published version and the draft version released for public comment) and the VTA model bailment agreement are used widely by taxi operators.³³ Data from the inquiry's operator survey shows that about 91 per cent of respondents have entered into a bailment agreement with their driver. Of those respondents who have a bailment agreement, about 25 per cent are based on the VTA model and about 63 per cent on the VTD model.

VTA agreement

In 2002, the VTA reviewed the model bailment agreement it had introduced in 1999 and published a new agreement. The VTA also published a guide that aims to explain the bailment relationship and the main terms of the agreement. The VTA model bailment agreement deals with such matters as the payment of rent, the bailee's obligations in respect of the taxi and in-cab equipment when in the custody of the bailee, the payment of a bond and, in certain circumstances, the payment of an accident surcharge by the bailee. The agreement also covers the bailor's obligation to keep records and to repair and maintain the taxi-cab.

Of particular note are the following clauses:

- Clause 13 – which sets out how disputes between the bailor and bailee will be handled (including where resolution of a dispute fails after service of a notice or mediation and referral of a dispute to arbitration)
- Clause 15 – which provides that the bailee has control of the taxi during the bailment and is not subject to any instructions or directions by the bailor except to the extent that the bailor instructs or directs the bailee to comply with the conditions of the agreement or the taxi licence
- Clause 16 – which provides that the agreement does not create a relationship of agency, employment, partnership or franchise between the bailor and bailee.

²⁹ Federation of Community Legal Centres, Op. Cit., p.5

³⁰ TDAV, Op. Cit., p.3

³¹ ESC, Op. Cit., p.18

³² Regulation 7 Transport (Taxi-Cab Industry Accreditation) Regulations 2007

³³ Based on audit data provided to the inquiry by the VTD

VTD agreement

In 2009, the VTD published a model bailment agreement. Like the VTA model bailment agreement, it sets out the rights, responsibilities and obligations of operators (bailors) and drivers (bailees). The Victorian Government published the model bailment agreement to provide bailees and bailors with a standard reference and established procedures for dealing with significant aspects of the bailment relationship.³⁴

Other than noting that the parties agree to meet to try to resolve disputes, the VTD model bailment agreement does not set out a detailed procedure for resolving disputes. However, it is noted in the introductory section of the agreement that the Victorian Small Business Commissioner or the Victorian Civil and Administrative Tribunal (VCAT) may be able to help settle disputes.³⁵ The agreement also contains clauses in much the same terms as clauses 15 and 16 of the VTA model bailment agreement.³⁶

In its submission to the inquiry, the Federation of Community Legal Centres criticises the VTD's model bailment agreement for including a clause that attempts to negate the creation of an agency relationship between the operator and driver.³⁷ The Federation argues that the clause seeks to curtail drivers' well-established common law right to indemnity from taxi owners in the event of a motor vehicle accident and that this runs counter to decisions by the Victorian Supreme Court that a non-owner taxi driver is not a mere bailee, but also an agent of the taxi owner.³⁸ The Federation's view is that by including this clause in the VTD model agreement, "the Victorian Government seems to be protecting the interests of owners, without regard to the interests or legal rights of drivers".³⁹

13.3.2. Bargaining power

There is some debate about whether an imbalance in bargaining power between operators and drivers contributes to driver quality outcomes. At face value, there is little concentration on the buyer (operator) side of the market. The inquiry has found that no single operator operates more than 200 vehicles, while there are many smaller and single car operations. Each of these operators need drivers, as vehicles are generally run both day and night.

However, a number of submissions pointed to inequities and inefficiencies in the current arrangements. The ESC argues that:

The key issue with bailment agreements is the uneven bargaining power of the respective parties ... This power imbalance leads to bailment agreements that result in below minimum wage remuneration outcomes for drivers.⁴⁰

Other factors that contribute to the poor bargaining position of drivers are their relative inexperience and financial vulnerability and the lack of an organised and cohesive body to represent their interests. On the other hand, the interests of taxi operators appear to be much better represented and reflected in bailment agreements. As the ESC points out:

The VTA agreement has the potential to be balanced in favour of operators, particularly for terms and conditions in which the industry benchmark is not well established. For example, the VTA agreement includes an accident surcharge, whereby drivers are liable to contribute towards the costs of an incident occurring during their shift.⁴¹

A further example of the VTA's influence over bailment arrangements is its communiqué to taxi operators distributed in early 2008, advising operators to amend their bailee arrangements to accommodate a fare rise aimed at offsetting increased LPG costs:

The VTA is advising operators to amend their bailee driver rent arrangements to accommodate the new LPG offset component of the fare box so that all of the 4.2% increase flows to them.⁴²

³⁴ See www.transport.vic.gov.au/taxis/taxis-drivers/model-bailment-agreement-for-drivers-and-operators, accessed 30 March 2012

³⁵ This is likely to be a less costly, more accessible option than having to go straight to arbitration. However, the Office of the Victorian Small Business Commissioner confirm that the dispute resolution services offered by it are rarely, if at all, accessed by taxi drivers

³⁶ Clauses 5 and 15 respectively

³⁷ Clause 15 (similar to Clause 16 in the VTA agreement), which states that the agreement "does not create between [the driver and the owner] a relationship of agency, employment, partnership, lease, franchise or independent contractors"

³⁸ Federation of Community Legal Centres, Op. Cit., p.5

³⁹ Ibid., p.7

⁴⁰ ESC, Op. Cit., p.19

⁴¹ Ibid., p.21

⁴² VTA email to DOT, 22 March 2008

Essentially, the uneven bargaining power between operators and drivers arises from the restrictive nature of licences: that is, the scarcity of licences gives licence holders and NSPs a major advantage over operators because they can charge increased assignment and affiliation fees. In turn, these higher costs contribute to operators 'squeezing' drivers.

Key industry participants (including the VTA) reject this view and argue that drivers have many options that reduce the bargaining power of operators, including shifting to other forms of employment and moving between or working for various operators.

The inquiry notes that perceptions of bargaining power appear to have changed since the recent reduction in new driver accreditations. Combined with the high turnover of drivers, there is an argument to suggest that the industry has gone from a situation of widely available drivers to one where there is a relative scarcity of drivers – at least, in terms of drivers available to work the least profitable shifts. This appears to have given drivers some more bargaining power than they have had previously – at least for the moment. Although figures on whether drivers are switching between operators are not available across the industry, anecdotal evidence from a number of operators is that drivers are switching between operators.

13.4. Driver earnings

Drivers generally negotiate their remuneration arrangements with operators. These arrangements involve a revenue split of the total fare (historically this has been 50:50) or a 'fixed fee' arrangement. Under a fixed pay-in arrangement, the driver pays a set amount for use of the taxi by shift or by week and retains the profits obtained through fares. In some Australian jurisdictions, the maximum able to be charged for fixed pay-ins are set by the industry regulator.

In its 2008 review of taxi fares, the ESC stated that about 95 per cent of all Victorian non-operator drivers are engaged through a 50:50 split of revenue arrangement.⁴³ This is consistent with data obtained by the inquiry from the VTD, which shows that the majority of operators audited in the last two years have a revenue share agreement (generally 50:50) with their drivers. This also matches data obtained from the inquiry's taxi operators survey, which shows that about 82 per cent of respondents have a revenue sharing arrangement with their driver and about six per cent have a fixed pay-in arrangement. The inquiry has heard from industry participants that fixed pay-in arrangements (where the driver pays an up-front amount for the week or shift to the operator and then retains 100 per cent of the fare box revenue) have increased in recent years.

13.4.1. Average hourly earnings

In its submission to the inquiry, the Transport Workers Union (TWU) notes:

*Anecdotal evidence shows that most drivers are getting paid lower than award rates for low income earners. There are no enforced standards underpinning driver engagement.*⁴⁴

In its submission, the VTD estimates that average hourly earnings for taxi drivers range from \$7 per hour to \$13 per hour and notes that:

*...the low rate of remuneration for taxi drivers is a serious concern to the VTD, and lies at the heart of most commonly identified issues with taxi services.*⁴⁵

However, some licence holders and taxi operators dispute these figures and state that drivers earn more by taking fares 'off the meter' for at least a few trips per shift.

The level of driver remuneration was a contentious issue in the ESC's previous reviews of taxi fares in 2005 and 2008 (see case study). The ESC reports that poor financial returns to drivers are not due to fares being too low, but to the scarcity of licences, market power wielded by NSPs and the distribution of revenue between licence holders, operators and drivers.⁴⁶

43 ESC (2008b), Op. Cit., p.147

44 Transport Workers Union of Australia – Victorian/Tasmanian Branch, Submission to the Taxi Industry Inquiry, SS115, p.1

45 VTD, Op. Cit., p.15

46 See ESC (2008b), Op. Cit., p.159

Previous findings on driver remuneration

In the 2005 ESC Taxi Fare Review, submissions to the ESC indicated that there are no official statistics relating to driver income (based on revenue collected during shifts). The majority of estimates provided to the ESC ranged from \$7.50 to \$8.00 per hour.

In the 2008 ESC Taxi Fare Review, the average taxi driver income in Victoria in 2007 was found to be \$13.20 per hour. This estimate did not include tips, which accrue to the driver under a bailment agreement.

As part of the 2008 review, PricewaterhouseCoopers conducted two surveys on behalf of the ESC to determine the changes in costs of operating taxis in Victoria between May 2005 and May 2008. The surveys estimated that driver payments per taxi are as shown in Table 13.5.

Table 13.5 Calculation of driver hourly earnings

	2000	2004	2007
Driver payments per taxi per year	\$63,097.08	\$66,283	\$71,411
Based on the above estimates of driver payments, the following hourly earnings can vary widely, depending upon which assumptions are used to estimate the number of hours worked by taxi drivers. Outlined below are two different assumptions based on the number of hours a taxi is driven.			
Estimated hourly wage if taxis run 7,020 hours per year	\$8.99	\$9.44	\$10.17
Estimated hourly wage if taxis run 5,530 hours per year	\$11.41	\$11.99	\$12.91

As described in chapter 5, the inquiry has received data on driver remuneration from a number of different sources, although none could be described as representative of all drivers. This is not surprising given the disparate nature of taxi operators and drivers.

The inquiry's estimated hourly average rate for Melbourne-based drivers of \$13 is around one dollar per hour higher than the estimate of \$12 per hour⁴⁷ produced by the ESC four years ago – prior to the 10.6 per cent fare rise.

Nonetheless, given that from this \$13 per hour drivers must allow for income tax, holiday and sick leave, superannuation and sometimes other expenses such as insurance and car cleaning, this hourly rate is still well below (annualised) average weekly earnings of around \$70,000 for private employees.⁴⁸ Thirteen dollars per hour equates to under \$40,000 per annum, assuming a 60 hour week (5 x 12 hour shifts) and working 48 weeks per year.

Thirteen dollars per hour is also below Australia's national minimum wage of \$15.51 per hour.⁴⁹ This minimum wage acts as a safety net for employees in the national workplace relations system to provide minimum rates of pay for employees not covered by awards or agreements. It is also well below the hourly rate of \$17.14 that applies to drivers of other passenger commercial vehicles such as buses, who are covered by an award.⁵⁰

13.4.2. Influence of driver quality and skill level on earnings

Taxi driving is generally seen as a relatively unskilled occupation. However, the inquiry is aware of some evidence that a better quality driver (one with good customer service skills, knowledge and competency) can attract more customers and, potentially, earn a higher income.

However, various factors work against better quality and better skilled drivers attracting more customers including:

- At ranks, there is no ability for better drivers to signal their quality to customers and even if they could do so, there are strong conventions in place that direct customers to take the taxi that is first in the queue (and which has been queuing the longest)

⁴⁷ The ESC actually reports a figure of \$13.20 per hour. The inquiry understands that this figure is inclusive of GST, so the driver payment component is only 10/11 of that, or \$12

⁴⁸ See Australian Bureau of Statistics, Cat. No. 6302.0, Average Weekly Earnings, August 2011, Private sector trend estimate

⁴⁹ See Fair Work Australia, accessed 30 March 2012 at www.fairwork.gov.au/pay/national-minimum-wage/pages/default.aspx. Casual employees have a 22 per cent loading applied to this wage, reflecting the loss of leave and other entitlements enjoyed by full time employees

⁵⁰ As contained in the *Passenger Vehicle Transportation Award 2010*

- In the hail (street) market, there is also no ability for drivers to signal their higher quality to potential customers.
- In the booking market, the major NSPs do not provide facilities for callers to seek the services of a particular driver.

Notwithstanding this, there are two reasons to think that driver service quality and skill level are important factors and are increasingly becoming a greater factor in driver remuneration:

- The use of mobile phones and 'secondary networks' allow drivers to generate repeat business if a higher than average quality service is provided.
- There is some value in drivers having knowledge of where to wait to minimise waiting times and maximise utilisation.

It has been difficult for the inquiry to determine the earnings dispersion between different drivers. Perhaps the most important piece of evidence is that there has been a change in the experience profile of drivers over time, with fewer longer-term drivers remaining in the industry.

The inquiry's proposals to make five year licences available for a fixed amount (set as an annual payment) will encourage more owner-drivers to enter the taxi market. Owner-drivers are more likely to remain in the industry and so tend to have better local knowledge and more experience – key factors in service quality.

According to the DOT submission to the inquiry:

High turnover of drivers is an endemic problem in the taxi industry. More than half of all active metropolitan drivers have less than three years' experience, while nearly one in four are in their first year.⁵¹

This suggests that if there is any benefit gained from being more experienced or skilled, it is unlikely to be sufficient to compensate for the generally poor earnings.

13.5. Driver costs

Drivers incur a number of costs that further reduce their remuneration.

Personal injury insurance

Under the Victorian *Accident Compensation Act 1985* (Accident Compensation Act), workers are entitled to compensation if they sustain an injury arising out of, or in the course of, employment. They are also entitled to assistance with returning to work after an accident.

A worker includes an employee and an individual who is deemed to be a worker for the purposes of the Accident Compensation Act and the *Accident Compensation (WorkCover Insurance) Act 1993*. Contractors are deemed to be workers in certain circumstances.⁵² Taxi drivers who have bailed a vehicle to carry passengers for reward are also deemed to be workers.⁵³

However, anecdotal evidence suggests that many taxi drivers have limited awareness of their entitlements under the Accident Compensation Act and feel obliged to take out their own personal injury insurance cover for work-related incidents. Submissions to the inquiry also show a level of confusion among drivers about personal injury insurance. It is clear that this insurance cost should be met by operators, not drivers.

Vehicle insurance

The question of whether an operator is vicariously liable⁵⁴ in the case of a vehicle collision caused by the negligence of his/her driver has a long and complex history. The courts have sometimes held that because the driver is not an employee of the operator, the operator is not vicariously liable.⁵⁵ In other cases, the courts have held that the operator is liable on the basis that the driver is an agent of the operator.⁵⁶

The inquiry received submissions from community legal centres (CLCs) that assist drivers with legal issues resulting from vehicle accidents. The CLCs describe cases in which the driver makes regular payments to the operator for vehicle insurance. This money is paid to taxi clubs.⁵⁷ In the event of an accident, the driver often pays an 'excess' of up to \$1,500 and is assured that the taxi club will pay any third party claim for property damage. However, the taxi club often fails to settle any such claims and the insurer of the third party may issue legal proceedings against the driver months or years later seeking amounts as high as \$20,000.⁵⁸

⁵² Section 8 *Accident Compensation Act 1985*

⁵³ Section 7 *Accident Compensation Act 1985* provides that when a person has the use of a motor vehicle (the driver) under a contract of bailment with another person (the operator) and they use the vehicle to carry passengers for reward and are required, under the contract, to make payments to the operator for the use of the motor vehicle, the operator is deemed to be the employer of the driver for WorkCover insurance purposes

⁵⁴ The common law principle of vicarious liability means that an employer is responsible for the loss or inquiry resulting from the wrongdoing of their employee committed in the course of employment notwithstanding that the employer is not at fault

⁵⁵ See for example *Dillon v Gange* (1941) 64 CLR 253

⁵⁶ See for example *Elfah Pty Ltd v Sabbadini* (1994) 19 MVR 81 and *Emjay Motors Pty Ltd v Armstrong*, unreported, Supreme Court of Victoria, Hedigan, 24 August 1995 (BC9502452)

⁵⁷ Entities that assist taxi owner/operator members pay for repairs to damaged taxis. Regular financial contributions made by members of taxi clubs are pooled together to self-insure their vehicles. The limited cover is usually granted on a discretionary basis

⁵⁸ Federation of Victorian Community Legal Centres, Op. Cit., p.4

⁵¹ DOT, Op. Cit., p.11

Case study

Case from the Taxi Driver Legal Clinic

In May 2008, taxi driver X was involved in a collision with Y. X, a student with no significant assets or permanent income, is married with dependent children. X paid the Melbourne Taxi Club Inc (MTC) an 'excess' of \$1,500, believing that MTC would settle any claim made by Y.

In June 2008, X received a letter of demand from Y's insurance company. Five months later, MTC sent an unsigned letter to Y's insurance company accepting liability and agreeing to pay \$4,960.73 in two instalments. MTC did not abide by the terms of this arrangement. Meanwhile, the matter proceeded to court in October 2009 and X was ordered to pay of \$5,741.94 to Y's insurance company.

In April 2010, MTC wrote to the insurance company's lawyers and enclosed an unsigned cheque for \$5,741.94. In response to a summons to attend an oral examination in relation to the outstanding debt, MTC again wrote to the lawyers in July 2010, proposing to pay the debt in monthly instalments of \$500.00.

In April 2011, the insurance company advised that it would no longer pursue recovery of the debt and confirmed that X "should have been indemnified by the Melbourne Taxi Club for this accident".

Some submitters, including the Suncorp Group and Footscray Community Legal Centre, have called for third party property insurance held by the operator to be compulsory in Victoria.⁵⁹

Superannuation, taxes and other costs

Bailee taxi drivers are typically responsible for superannuation and for paying GST and income tax to the Australian Taxation Office (ATO).

Australian employers are required to make superannuation contributions for the benefit of all employees (including casual employees) who are aged between 18 and 69 and who are paid \$450 or more before tax in a calendar month. If a worker is an employee at common law, they will be an employee under the Commonwealth *Superannuation Guarantee (Administration) Act 1992* (Superannuation Act) unless one of a number of limited exceptions applies.

The Superannuation Act also deems certain persons to be employees for the purposes of superannuation laws. This includes people who work under a contract that is wholly or principally for their labour. However, an arrangement such as a lease or bailment does not give rise to an employer-employee relationship for the purposes of the Superannuation Act.⁶⁰ Accordingly, bailee taxi drivers are not entitled to superannuation contributions.

Following the Federal Government's introduction of the *New Tax System* on 1 July 2000, bailee taxi drivers have had to apply for and be granted an Australian Business Number (ABN) and register for GST. They must pay their net GST amounts and lodge their business activity statements (BAS) each tax period (either quarterly or monthly).

Tax non-compliance among taxi drivers is known to occur. For example, drivers may avoid the proper assessment of their personal income tax liability by failing to record cash payments or they may apply to the ATO for an ABN but not register for GST so as to avoid the compulsory lodgement of BAS.⁶¹

The results of the inquiry's surveys of drivers and operators show that the majority of drivers pay for tolls, airport fees and their uniforms. Drivers also often pay for car cleaning. Where a fixed pay-in arrangement is used, drivers will also likely be responsible for purchasing LPG.

⁵⁹ Suncorp Group and Footscray Community Legal Service, Submission to the Taxi Industry Inquiry, SS152, p.4

⁶⁰ Australian Taxation Office, Superannuation Guarantee Ruling SGR 2005/1, p.13

⁶¹ Rothengatter, M.R. (2008), 'Taxing taxis' – limits and possibilities for regulating tax compliance behaviours of taxi drivers: an Australian case study, 2008

Why raising fares is not a good way to increase driver income

A number of respondents to the inquiry – including the VTA – argue that a fare rise is necessary to increase driver remuneration. The VTA suggests that “the proposition that a fare increase will not flow to the driver is completely erroneous”.⁶² The VTA says that, as most drivers are on 50:50 fare splitting arrangement with their operators, the fare increase will automatically flow through to drivers. They state that even if there is a concern that the 50:50 arrangement would be changed following a fare rise, then such arrangements can be enforced to ensure drivers receive at least the 50 per cent of revenue benefit of a fare increase.

The positions of the VTA and others in the industry does not stand up to scrutiny. There are good reasons to expect that increased fares will have little to no effect on driver incomes.

The ESC noted in 2008 that there are substantial problems with raising fares to increase remuneration. It argued that:

Through the typical revenue sharing formula, taxi drivers may be beneficiaries of a fare increase, if the impact of higher fares on demand is limited, and overall revenue increases. However, it is also possible that driver incomes will not increase as much as expected, if the standard bailment arrangements are modified to reduce the effective driver share of revenue. For example, this is reported to have occurred after the 4.2% fare increase in March 2008 Driver incomes (and the incomes of operators in their capacity as drivers) might increase proportionately with any increase in industry revenue under current bailment arrangements.⁶³

However, even the ESC’s analysis is incomplete. In fact, even if industry revenue increases and the current 50:50 (or 48:52) arrangements do not change, drivers may not benefit from the fare rise.

The fundamental reason why increasing fares does not increase driver earnings is that the fare rise will change the behaviour of drivers and consumers. The industry’s arguments assume that behaviour remains constant; however, in practice – as observed from previous experiences – other things will not remain constant. The two most important changes are that (a) drivers react to the higher fares by increasing their supply of labour and (b) consumers react to higher fares by reducing their demand for taxi services. Both changes affect the remuneration received by drivers.

These points can be illustrated with a simple example. Suppose that:

- The initial fare is \$20 and each taxi takes one fare an hour
- Drivers therefore earn \$10 an hour, assuming a 50:50 split
- Initially, there are 1,000 vehicles available but only 900 vehicles being used. The \$10 per hour is not enough to attract the last 100 drivers.

Assume a fare rise of 10 per cent: will this improve driver remuneration by 10 per cent and, if not, by how much? The following table outlines the possible outcomes that could follow, depending upon driver behaviour only.

Table 13.6 Fare rise example

Initial assumptions: fare = \$20 fare rise = 10%	Pre fare rise	Post fare rise – no driver inducement effect	Post fare rise – partial inducement effect	Post fare rise – full inducement effect
Total vehicles	1,000	1,000	1,000	1,000
Vehicles on road	900	900	950	990
Total fleet income per hour	\$18,000	\$19,800	\$19,800	\$19,800
Total driver income per hour	\$9,000	\$9,900	\$9,900	\$9,900
Per driver per hour	\$10.0	\$11.0	\$10.4	\$10.0
% change in per driver per hour income		10%	4.2%	0.0%

62 VTA, Submission to the Taxi Industry Inquiry, SS60C, p.4

63 ESC (2008b), Op. Cit., p. 160

In this example, three different outcomes are observed. Only in the first case (no driver inducement effect) is it valid to conclude that the fare rise will give drivers the same percentage rise in income. Under a partial inducement effect, the impact of the fare rise on driver income will be mitigated by the increase in drivers attracted by the higher income. Under the full inducement effect, the percentage increase in driver income will be the same as the fare increase – with the result being no change in driver earnings.

Although the inquiry has no firm evidence on how taxi labour supply varies with prices (supply elasticity), it is widely considered in the literature on taxi services that supply is very elastic.⁶⁴ This stems from the relatively minimal entry requirements for becoming a taxi driver.

These three cases are explored in more detail in Figure 13.1.

This analysis ultimately suggests that, if a 50:50 arrangement is retained after a fare rise, increases in fares that induce more drivers to drive will not raise driver earnings as long as there is no barrier to using more of the existing fleet. Fare rises will *only* significantly increase driver earnings if the supply of labour is inelastic – that is, if the increase in payments will not induce more drivers to enter the market. This will probably only pertain to Friday and Saturday nights where there is no ability to increase labour supply because the number of taxis available is limited.⁶⁵

The inquiry's analysis predicting that raising fares will not necessarily raise driver incomes by a similar proportion is supported by the evidence of the outcomes of previous fare rises:

- Based on unsourced data, McQuillen in 2001 argued that driver earnings increased by \$1 from \$6 to \$7 an hour over the period from 1989 to 1999 (16.7 per cent), even though fares had risen by 46 per cent over the same period (measured from December to December).⁶⁶
- Driver earnings were estimated in the PWC survey for 2000 as being between \$8.99 and \$11.41 an hour (depending on working hours assumed). By 2007, these hourly earnings were estimated to be \$10.17 and \$12.91. This rise of 13.1 per cent is well below the corresponding fare rise over this period of 22.5 per cent (December to December).

A further piece of evidence suggesting that fares are unrelated to driver income comes from New South Wales (NSW). The VTA has argued consistently that taxi fares in Victoria are 30 per cent lower than in NSW and that this is “not sufficient to cover the costs associated with running a cab. This includes ensuring a fair return for drivers”.⁶⁷ However, recent work in NSW suggests that even though fares are relatively high, driver incomes in NSW are currently even lower than Victoria's were in 2007: the average hourly rate across all shifts is \$10.68 an hour for urban drivers and \$11.85 for country drivers.

IPART, the NSW regulator charged with reviewing taxi fares, has also noted that “over the past 10 years taxi fares have increased significantly in real terms and by more than the average growth in wages, yet driver earnings don't appear to have risen significantly over this time”.⁶⁸

The evidence that fare rises do not accrue to drivers raises the question of where this extra income goes. The primary short term effect of increasing fares is to increase operator returns. However, these increases in returns will not become excessive in the medium to longer term because there are few barriers to operating a taxi. Accordingly, it can be expected that any excess returns (returns in excess of economic costs) the fare increase delivers will be rapidly bid away by operators bidding up the prices of assignments and ultimately licences.

A number of submissions and responses to the inquiry agree that increasing fares is not, of itself, sufficient to improve driver remuneration and that complementary measures – such as a minimum guaranteed income – are required to ensure that the increasing revenues are not captured by taxi licence holders.

64 See for example: Abelson, Peter (2010), ‘The High Cost of Taxi Regulation, with Special Reference to Sydney’, *Agenda*, Volume 17, No. 2

65 In these circumstances, where the driver supply has been artificially restricted, operators will have strong incentives to strike a more favourable remuneration agreement with drivers (such as a higher operator split)

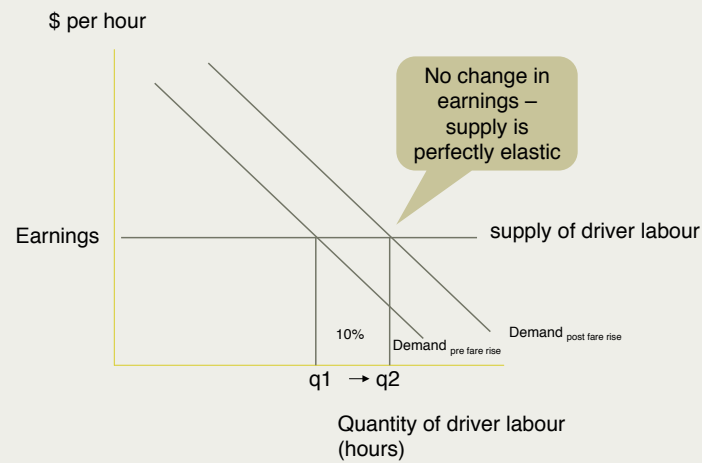
66 McQuillen, Rob PSM (2001), *Op. Cit.*, p.8

67 VTA Media Release, 6 December 2011

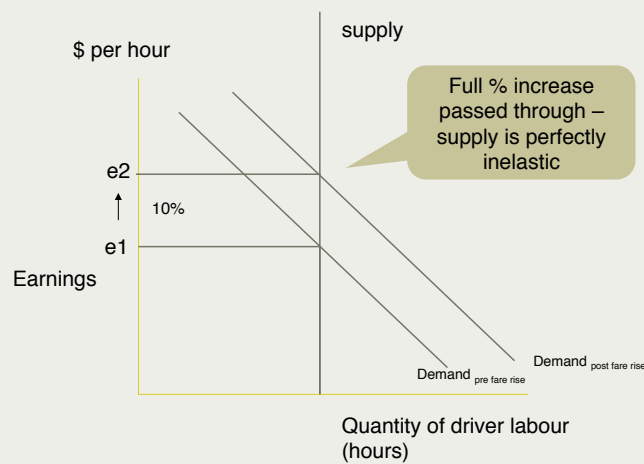
68 IPART, Discussion Paper 3: Level of fare revenue compared with costs, February 2012, accessed 2 March 2012 at www.ipart.nsw.gov.au

Figure 13.1 The effect of fare rises under 50:50 arrangements

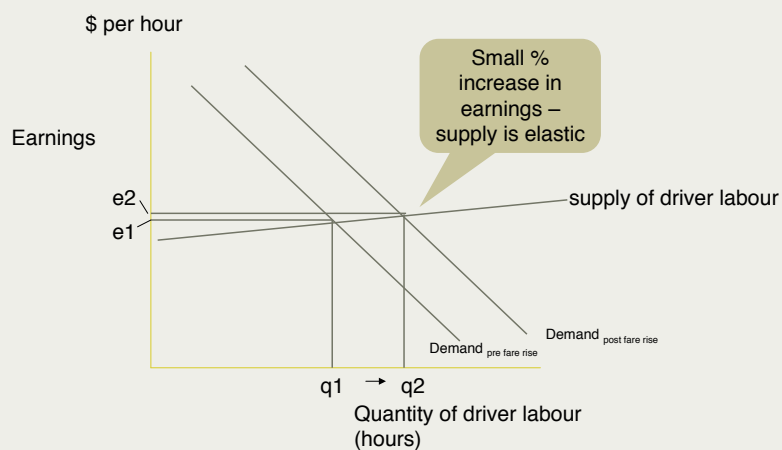
Case 1: Supply is perfectly elastic, 10% fare rise does not change



Case 2: Supply is perfectly inelastic, small increase in earnings



Case 3: Supply is elastic, 10% fare rise increases earnings by 10%



Source: TII

13.6. Driver working conditions

Generally, taxi drivers work under conditions where they have fewer protections and entitlements than most other workers.

Leave

Taxi drivers are typically responsible for their own annual leave and personal leave. The entitlement to long service leave in accordance with the *Victorian Long Services Leave Act 1992* also does not apply unless a driver is engaged as an employee. However, where a driver is engaged as an employee, they may be entitled to 13 weeks' paid leave after 15 years of continuous employment.

The inquiry's survey of taxi drivers found that just 0.05 per cent of respondents receive holiday or sick pay. While the majority of drivers are permitted by their operators to take time off when they are sick (about 85 per cent) or when they want to take holidays (about 83 per cent), almost all do not get paid during these times.

Similarly, the inquiry's survey of operators revealed that about 94 per cent of respondents allow their driver to take time off because they are going on holidays or are sick. However, only about nine per cent provide holiday or sick leave entitlements to their driver.

Occupational health and safety

Victoria's *Occupational Health and Safety Act 2004* (OHS Act) imposes certain duties on particular entities to ensure health and safety in the workplace. Under the Act, an employer must, so far as is reasonably practicable, provide and maintain a working environment for their employees that is safe and without risks to health. An employee is defined as a person employed under a contract of employment or contract of training. An employer also owes this duty to an independent contractor engaged by them and any employees of the independent contractor.

A self employed person also has a duty under the OHS Act to ensure, as far as is reasonably practicable, that persons are not exposed to risks to their health or safety arising from the conduct of the undertaking of the self-employed person.

Bailment relationships do not appear to be covered by the OHS Act. Unless taxi drivers are employees or independent contractors, they are not owed a duty by any employer under the OHS Act. They also arguably owe a duty of care to members of the public as self employed persons.⁶⁹

Bailment relationships are expected to be covered in the new national Work Health and Safety (WHS) laws that are proposed to be introduced in Victoria.

Proposed new national Work Health and Safety laws

On 11 December 2009, the Workplace Relations Ministers' Council endorsed the *Model WHS Bill*. Consistent with the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety signed by the Council of Australian Governments, the Commonwealth and each state and territory government will enact a WHS Act to replace existing occupational health and safety laws.

The new laws were intended to commence on 1 January 2012 but in September last year, Victoria's Assistant Treasurer called for a 12 month delay to assess the impact of the proposed laws on Victoria.⁷⁰ A report prepared by PWC for the Victorian Government has found that the new laws will cost Victorian businesses more than \$3.4 billion over the next five years.⁷¹ At this stage, it is unclear what this means for the introduction of the new laws in Victoria.

The uniform WHS laws will be similar to the Victorian OHS Act, but will incorporate changes to terms and duties that will make clearer the health and safety obligations of entities involved in the taxi industry.

The term 'person conducting a business or undertaking' (PCBU) will replace the term 'employer'. This term covers any person conducting a business or undertaking alone or with others whether or not the business or undertaking is conducted for profit or gain. It is intended to cover a broader range of working relationships and may capture some persons not currently considered an 'employer' under the OHS Act. It will include employers, sole traders, principal contractors, partnerships and unincorporated associations.

69 See chapter 17 for a discussion on other aspects of driver safety such as fatigue and in-cab safety

70 Assistant Treasurer of Victoria, Media Release (28 September 2011), *Victoria calls for delay to national Occupational Health and Safety harmonisation*

71 Premier and Assistant Treasurer of Victoria, Media Release (12 April 2012), *Proposed Commonwealth OH&S laws to hit Victorian businesses hard*

The term 'worker' will replace the term 'employee'. The Explanatory Memorandum to the *Model WHS Bill* notes that:

The Bill adopts a broad definition of 'worker' instead of 'employee' to recognise the changing nature of work relationships and to ensure health and safety protection is extended to all types of workers.

Clause 7 defines the term 'worker' as a person who carries out work in any capacity for a PCBU, including work in any of the capacities listed in the provision. The examples of workers in the provision are illustrative only and are not intended to be exhaustive. That means that there will be other kinds of workers covered under the Bill that are not specifically listed in this clause (e.g students on clinical placement and bailee taxi drivers).⁷²

The primary duty of care owed by PCBUs under the *Model WHS Bill* is to ensure, so far and is reasonably practicable, the health and safety of:

- Workers engaged, or caused to be engaged by the person, and
- Workers whose activities in carrying out work are influenced or directed by the person

while the workers are at work in the business or undertaking.⁷³

Upon commencement of a new WHS Act in Victoria, taxi drivers (whether bailees, independent contractors or employees) will be owed a general duty of care by any person that has engaged them in their business or undertaking. This includes the taxi operator who 'engages' the taxi driver and potentially the NSP which, under the current regulatory structure, arguably 'influences' or 'directs' the activities of the driver when carrying out work. Under the new WHS laws, taxi drivers will also:

- Be consulted on specified health and safety matters
- Be able to request the election of a health and safety representative
- Have the right to cease unsafe work.⁷⁴

In-cab safety

Driver safety in cabs and options to improve safety are discussed in chapter 17.

13.7. Driver turnover and shortages

The inquiry has heard that the number of short-term and part-time taxi drivers has grown significantly over recent years, with many being overseas students. Turnover of drivers is high, requiring 1,500 to 2,000 new drivers to be trained and accredited in Victoria each year.

A key failing of the industry is that it cannot retain drivers once recruited. Although there are other factors, primarily this seems to be due to the poor terms and conditions that are offered to drivers by taxi operators. As the ESC notes, these practices appear to be leading to a turnover of a large part of the driver pool every six to seven years.⁷⁵

A number of taxi operators have complained to the inquiry of driver shortages. By driver 'shortage', the inquiry understands operators to mean that they are unable to find drivers to fill certain shifts, particularly night shifts early in the week and day shifts at weekends. At these times, there is less money available in the 'fare box' and driver remuneration is lowest.

A letter to the inquiry from Taxilink, a major Melbourne operator, notes that shift coverage dropped substantially between late 2010 and late 2011. Shift coverage was said to have dropped from 11 out of 14 shifts (79 per cent) to eight out of 14 shifts (57 per cent).⁷⁶ This information is supported by data provided anonymously by a large operator that shows shifts covered falling substantially between 2007 and 2011.

The DOT has commented that:

Over the past 12-18 months, the industry has reported a shortage of drivers due to the sharp decline in the number of new drivers entering the industry. One cause of this was the change made by the VTD in 2009 to the processing of driver accreditation applications, whereby applicants who held a Victorian drivers licence for less than 12 months were required to attend an interview as a quality control measure.⁷⁷

However, there are clearly other broader factors that have reduced driver recruitment. The DOT also notes that changes to student visa policies, a strengthening Australian dollar and negative publicity about attacks on Indian students in Melbourne have also contributed.

⁷² Explanatory Memorandum Work Health and Safety Act 2011 (Cth)

⁷³ Clause 19 *Model Work Health and Safety Bill*

⁷⁴ Part 5, Divisions 2, 3 and 6 *Model Work Health and Safety Bill*

⁷⁵ ESC, Op. Cit., p.20

⁷⁶ Taxilink, Submission to the Taxi Industry Inquiry, SS254, p.2

⁷⁷ DOT, Op. Cit., p.11

The inquiry's consultations reveal a degree of inflexibility within the industry about how to reduce driver shortages. Clearly, the broader factors are not within either the industry's or the Victorian Government's control. In the inquiry's view, a response from industry is required and the place to start this response is to look at strategies to retain drivers within the industry, rather than dealing with driver turnover as an issue that is largely fixed.

The inquiry recognises that taxi operators, who are responsible for remuneration of drivers, have found themselves in an unenviable position. Operators face a number of fixed outgoings, such as licence assignment and network fees, but have highly variable income depending upon their ability to fill shifts. Operators bear the burden of earnings variability far more than either drivers (who can elect to do other kinds of work or not work at all) or licence owners (who charge annual fixed fees). Nonetheless, the inquiry notes that options are available to increase shift coverage, primarily by giving drivers a greater share of taxi earnings for less desirable shifts. While this will reduce operators' margins at these times, any contribution towards the fixed costs of operation is better than no contribution.

The inquiry recognises that moving to a strong owner-driver model over time will likely increase the number of full-time drivers and have a positive impact on driver retention.

13.8. Driver status and respect

Many drivers believe that a lack of respect is one of the biggest issues they face. Drivers have complained to the inquiry that they are often portrayed negatively – and unfairly – by the media, which reinforces widely held misconceptions and stereotypes. There are comparatively few 'good news' stories about drivers and no formal avenues for rewarding excellence in providing customer service. Several drivers argue that while complaints about drivers are taken seriously by the VTD, Victoria Police, NSPs, the media and others, complaints by drivers about individual customers are not.

One operator-driver describes the effect this can have on drivers:

One of the biggest internal problems for taxi drivers is the feeling of abandonment. Seems like every time you go out on your shift you have to face cheating by other drivers, illegal touting and 'cruising' by the VHA [and VTD], adverse public image, rude and aggressive customers and many other various adverse actions and conditions. The main issue with these factors is that NO-ONE cares about the driver doing his or her duty.⁷⁸

Another driver comments that:

Many drivers (including me!) come from a culture where respect is automatically given until a person proves unworthy of it. This may be the cause of the 'loop of anger' which many drivers find themselves in ... It's not just to do with lack of driver knowledge and dirty cabs, driver self esteem has to be at the base of it ...⁷⁹

Many taxi operators and drivers draw a direct link between the status of drivers and service quality. For example:

It is axiomatic that in those jurisdictions where the professional cabbie (rather than the itinerant and transient driver) can thrive and survive – so does the overall standard of service.⁸⁰

The highly itinerant nature of the workforce is a function of the appalling pay and conditions the drivers must endure and is a direct result of the agreement that sees them not remunerated properly for their efforts. You want a better service you simply have to increase the pay for the drivers.⁸¹

Change the role and status of drivers and this will in turn lead to significantly better outcomes for the taxi industry and for users.⁸²

Some taxi operators argue that improving the status and safety of drivers will attract more women into the taxi industry. In turn, this would encourage more women to use taxis.

78 Paul Mangion, Submission to the Taxi Industry Inquiry, SS165, p. 3

79 Alasdair Baird, Submission to the Taxi Industry Inquiry, SS231, p.1-2

80 Peter Trost, Submission to the Taxi Industry Inquiry, SS76, p.1

81 Kevin Russell, Submission to the Taxi Industry Inquiry, SS173, p.1

82 TDAV, Op. Cit., p.2

Suggestions from drivers to improve their status include a driver code of conduct for drivers, public signals of recognition for experienced drivers (such as badges and certificates) and alternative pay structures to improve the retention of experienced drivers. Some drivers feel that industry representatives and the VTD should be more engaged in promoting media stories about drivers who provide a high standard of service.

13.9. Accountability for driver quality

As noted in Part C of this report, a key reason for the introduction of the taxi industry accreditation scheme was to address the lack of a chain of responsibility in the industry. However, the continuing existence of bailment arrangements facilitates the shifting of risk and responsibility from the operator to the driver. This is particularly the case where a fixed pay-in arrangement is used. This leads to a situation where drivers are ultimately seen as solely accountable for the service provided to the customer. For reasons including low remuneration, poor working conditions, long working hours and the inability for drivers in the hail market to signal their high quality and attract repeat business, there is little if any incentive for drivers to provide a quality service.

Inquiry findings

- Bailment arrangements are an unsatisfactory means of 'engaging' taxi drivers.
- The industry is based on recruiting large numbers of drivers and is generally able to meet this objective, due to relatively low barriers to entry. However, the industry is unable to retain drivers, with the predominant reason almost certainly being poor remuneration and working conditions.
- Remuneration is not likely to be as poor as sometimes publicly quoted and is very likely to be above \$10 per hour. Nonetheless, remuneration is still low compared to minimum wages in other occupations.
- A number of drivers are unaware of their entitlements under the Accident Compensation Act and so unnecessarily pay for personal injury insurance cover for work-related incidents. The inquiry has been told of instances where drivers are also incurring costs associated with vehicle insurance and excess payments following vehicle collisions.

- While poor driver pay and working conditions are not in dispute, the reasons for this are debated. The industry largely blames externally-imposed restrictions on the supply of drivers, such as changes to student visa laws and the refusal of the Victorian Government to increase taxi fares. However, there seems to be some acceptance that raising fares may not have the desired effect on driver retention if other, complementary measures are not taken to improve the probability of drivers capturing some of the fare increase as higher earnings.
- Operators are subject to demands by licence owners for significant and growing fees for licence assignments. In circumstances where there have been no fare rises for a number of years, this places operators under financial pressure. Nonetheless, the industry has not shown the degree of flexibility in dealing with the 'driver shortage' that one might expect: few operators appear to be willing to contemplate paying drivers more to attract or retain more or better quality drivers. This is notwithstanding the high level of fixed costs that operators have, which should encourage such flexibility.
- Bailment relationships do not appear to be covered by the OHS Act. Taxi drivers should be owed a duty under the OHS Act.

Rewarding and recognising service excellence

A number of people suggested to the inquiry that there should be some mechanism for rewarding or recognising quality taxi drivers, noting that there are recognised avenues for making a complaint but no formal way to report a positive experience with taxis.

In many industries, it is common for businesses and industry associations to recognise and reward employees or member companies for excellent performance and customer service. For example, the Housing Industry Association (HIA) offers an array of awards to help HIA members receive recognition for outstanding workmanship, design and innovation. Such awards provide individual satisfaction and are used by the winners to promote their services to customers.

The inquiry understands that an awards program has been implemented by one of the major metropolitan NSPs to recognise longevity of service by taxi drivers. While this program is to be commended, an industry-wide scheme that recognises service excellence is noticeably absent and is perhaps a sign of poor industry coordination and low levels of innovation.

The inquiry considers that an awards program for drivers and industry participants could assist in portraying an image of an industry that strives to deliver a quality product and would go some way to restoring the public's trust in the taxi industry generally. In particular, the inquiry considers that excellent driver service for people with a disability should be recognised and rewarded. In the short term, awards could be jointly funded and organised by government and industry, similar to the Victorian Tourism Awards or the Victorian Disability Sector Awards (VDSA). The VDSA recognise and honour the achievements of those providing support, leadership, advocacy, services and education that lead to the improvement of the life of people with a disability in Victoria. They are held in partnership with National Disability Services Victoria, Disability Professionals Victoria and the Department of Human Services.

An annual award event specific to the taxi industry would highlight the important role that taxis play within the community. In a future with more competition in the taxi industry, such awards would provide another valuable signal to the public to inform their choices. The taxi industry should be encouraged to commence a 'taxi driver award recognition program' and the TSC offer assistance and possibly seed funding for starting up the program; however the TSC should not provide recurrent funding.

The TSC could seek out specific recognition of taxi services to the disability sector by sponsoring a new category for taxi services within the disability sector at an event such as the VDSA. Eventually, the commercial incentives should be strong enough within the industry for such awards to be organised without government assistance both for services to people with a disability as well as broader customer service.

13.10. Improving driver quality

The inquiry's consultations, research and analysis show that poor driver pay and working conditions, and poor controls on ensuring that new drivers have achieved core competencies, are at the core of current problems with driver quality in Victoria's taxi industry. It is evident that regulatory measures such as increasing driver training requirements alone will not achieve the much higher driver quality demanded by consumers. While confidence in the driver training regime can be significantly strengthened by implementing a scheme to independently examine new drivers, data and feedback received by the inquiry highlight that the broader community recognises that driver pay and working conditions must also improve if driver quality is to improve.

In its submission to the inquiry, the City of Melbourne recommends that the inquiry explore improved remuneration packages for taxi industry participants that reflect the importance of the role of taxis in the public transport system.⁸³ The VTA believes that driver income is one of the 'four pillars of reform' that will improve service outcomes for customers.⁸⁴ Springvale Monash Legal Service has called for:

...regulatory change that gives drivers employee status that is comparative with other workers in the transport system.⁸⁵

In considering various ways to improve taxi drivers' remuneration and working conditions (and in turn, improve driver quality), the inquiry has examined how other jurisdictions are addressing the issue.

⁸³ City of Melbourne, Op. Cit., p.11

⁸⁴ VTA, Submission to the Taxi Industry Inquiry, SS60C, p.1

⁸⁵ Springvale Monash Legal Service, Submission to the Taxi Industry Inquiry, SS98, p.5

13.10.1. How have other places tried to improve drivers' pay and working conditions?

Several jurisdictions have sought to improve the pay and/or working conditions of taxi drivers by:

- Introducing a system parallel to the industrial relations system that sets methods of payment and leave entitlements for bailee drivers (New South Wales)
- Regulating the income distribution between operators and bailee drivers by mandating maximum pay-ins (Western Australia) or limiting standard lease rates charged to drivers (New York and other US cities)
- Increasing the transparency of bailment agreements by requiring agreements to be in writing and prescribing the matters that the agreement must address (Queensland)
- Promoting the role of owner-drivers in the industry (Toronto and San Francisco).

The inquiry is unconvinced that the measures employed in other jurisdictions have resulted in substantial or significant improvement in both the pay and working conditions of taxi drivers in those jurisdictions.

Directly regulating the minimum share or level of income of parties under a bailment arrangement may advance the negotiating position of drivers when entering into a bailment agreement which, in turn, could result in a better pay outcome for drivers. Yet as noted earlier, recent work in NSW, where maximum pay-in rates operate in respect of contracts of bailment in the Metropolitan Transport District, suggests driver incomes there are currently even lower than Victoria's were in 2007, with \$10.68 being the average hourly rate across all shifts for urban drivers.

The Determination made by the NSW Industrial Relations Commission also appears somewhat ineffective in improving working conditions. Although permanent drivers under the Determination who have worked the requisite number of shifts must be paid annual leave, a compliance campaign carried out by NSW Industrial Relations last year confirmed that it is relatively common for drivers to trade their entitlement to annual leave in exchange for an agreement to pay-in a lesser amount than the maximum amount specified in the Determination.⁸⁶

While it may be too early to assess the impact of the amendments to Queensland's passenger transport legislation on bailment agreements, the inquiry doubts that simply improving transparency and enabling drivers to negotiate more beneficial agreements will result in an overall fairer deal for drivers.

Although the regulators in the US cities surveyed by Hara Associates did not report problems with enforcing driver lease rates, this may not necessarily reflect that the regulation of lease rates is working. Hara Associates notes that:

Lease drivers in San Francisco complain that they must pay significant tips each day, routinely passing over cash along with their daily request for a car. Those that do not tip enough may end up going to the bottom of the request list waiting fruitlessly for a vehicle.⁸⁷

Promoting the role of owner-drivers may improve the income of those drivers, but not of other drivers who may prefer to work part-time or on a casual basis for another operator.

What's happening in other places?

Contract determination, New South Wales

Exercising its jurisdiction under Chapter 6 of the *Industrial Relations Act 1996* (NSW), the Industrial Relations Commission of New South Wales made the *Taxi Industry (Contract Drivers) Contract Determination 1984* (the Determination). The Determination operates in respect of contracts of bailment in the Metropolitan Transport District. A contract of bailment is defined as a contract under which a public vehicle that is a taxi-cab is bailed to a person to enable the person to ply for hire.

Under the Determination, a bailee driver can choose either the commission or set pay-in method of payment. Under the commission method, a first year permanent driver is entitled to 45 per cent of all fares taken (including GST). A casual or second and subsequent year permanent driver is entitled to 50 per cent of all fares taken (including GST). The operator pays for the cost of fuel and car washing. Under the set pay-in method, a bailee driver pays the operator a fixed amount at the end of each shift. The maximum pay-in rates are stipulated in the Determination. The bailee driver pays for the fuel and car washing.

Only permanent bailees are entitled to annual leave, sick leave and long service leave under the Determination. A permanent bailee is a driver who regularly takes a taxi on bailment from the same bailor for five shifts per week or at least 220 night shifts per year.

⁸⁶ Letter from NSW Industrial Relations to Taxi Industry Inquiry, 15 November 2011

⁸⁷ Hara Associates (2012), *Op. Cit.*, p.12

An operator can terminate the contact of bailment by giving a permanent bailee one week's notice or payment in lieu of notice. No notice is required for a casual bailee.

Setting maximum shift lease rates, Western Australia

Under section 20 of the *Taxi Act 1994* (WA), the Director General may impose conditions on the operation of a taxi using specified plates in relation to, amongst other things, driver qualifications and standards, insurance requirements and any other matters prescribed by regulation. Regulation 5A of the *Taxi Regulations 1995* (WA) provides that the leasing of the taxi (with its taxi plates) is a matter where the Director General can impose conditions. This includes:

- The provision to the Director General of information about the terms and conditions of the lease and any variation of those terms and conditions
- The maximum amounts that may be charged in relation to the lease.

The current maximum shift lease rates (plate and vehicle) published on the Western Australian Department of Transport's website are \$107.20 for Friday and Saturday night shifts and \$74 for all other 12-hour shifts.

Regulating driver lease rates, US cities

The New York City Taxi and Limousine Commission regulates the standard lease rates charged to drivers. The Rules of the City of New York also require that the lease be in writing and be signed by the parties. The lease must contain specified terms including details of the costs that the driver will be charged, deposit information and cancellation charges. Penalties for violation of the rules include fines, suspension of the medallion and restitution to the driver.

Other US cities, namely Boston, Chicago, Minneapolis, San Francisco and Seattle, also directly regulate the lease rates that drivers without medallions may be charged. The regulated rates range from \$57 to \$98 per shift between cities, covering varying packages of services.⁸⁸

Minimum requirements for bailment agreements, Queensland

On 1 September 2011, Chapter 4A of the *Transport Operations (Passenger Transport) Act 1994* (Qld) commenced. The chapter provides minimum requirements for taxi service bailment agreements. The requirements do not apply where a driver is employed by an operator.

Section 35L provides that a taxi service agreement must be in writing, must be signed by both parties and must include prescribed information.

The prescribed information includes information about personal injury insurance, the payment of fuel and insurance premiums and excesses and the percentage of the takings or the set pay in amount (as the case may be) payable to the driver.

The new provisions create a number of offences. For example, it is an offence for an operator to permit a driver to drive a taxi unless the operator has entered into a taxi service bailment agreement with the driver. It is also an offence for an operator to enter into an agreement that provides for a fixed pay-in arrangement unless the driver has held driver authorisation for at least 12 months consecutively or cumulatively within the five years before the agreement is entered into. In both cases, the maximum penalty is 40 penalty units.

Both the Taxi Council Queensland and the Queensland Government (Department of Transport and Main Roads) have published model taxi service bailment agreements.

Owner-driver regime, Toronto

In 1998, Toronto introduced its Ambassador program. Ambassador licence plates were issued to drivers who, in addition to the regular training, completed a 40-day training course and sat an exam. The 1,400 Ambassador licence plates cannot be assigned or transferred.⁸⁹

⁸⁸ Ibid., p.12

⁸⁹ Ibid., p.10

13.10.2. How can taxi drivers' pay and working conditions be improved in Victoria?

Legislative framework for engagement of drivers

In its submission to the inquiry, the Transport Workers Union (TWU) suggested that the inquiry consider whether the framework for the engagement of contractors under the Victorian *Owner Drivers and Forestry Contractors Act 2005* (Contractors Act) could be replicated specifically for the taxi and hire car industry.⁹⁰

The Contractors Act regulates the relationship between:

- Persons who contract to transport goods in a vehicle supplied by them (owner drivers) and the persons who hire them
- Persons who contract to harvest forest products using motorised equipment supplied by them (forestry contractors) and the persons who hire them.

The Contractors Act sets out various contracting requirements, including:

- A contractor must be given an information booklet before the contractor is engaged.
- A contractor must be given a copy of the most recently published applicable rates and costs schedule⁹¹ before the contractor is engaged.
- A regulated contract must be in writing and set out certain matters, including the rates to be paid to the contractor and the minimum period of notice of termination of engagement or payment in lieu.

The Contractors Act also allows negotiating agents to be appointed, provides for the referral of disputes to the Victorian Small Business Commissioner for alternative dispute resolution,⁹² provides for codes of practice to be made and prohibits unconscionable conduct.

While it is possible to enact legislation along the lines of the Contractors Act to cover the bailment system used with taxi drivers, there are significant differences between taxi drivers and owner-drivers that make the framework under the Contractors Act unsuitable in the taxi driver context. These include:

- An owner-driver supplies his or her own vehicle and operates a small business. A bailee driver bails a vehicle from an operator. Although operators may regard drivers as conducting their own businesses, many taxi drivers do not regard themselves in this way. In fact many taxi drivers feel that they are controlled and directed in the way that employees are controlled and directed by their employers, but without any of the benefits that come with being engaged as an employee.
- Owner-drivers are represented by the TWU but uniform, organised representation for all taxi drivers does not exist. Although drivers are able to join the TWU, the relatively small number of taxi drivers who are TWU financial members suggests that drivers (particularly bailees) are unable to afford membership and/or see little benefit in joining a union. The taxi driver population comprises different cohorts (ranging from casual bailee drivers to full-time owner-drivers) that have different and sometimes competing interests. Representation of the entire taxi driver population would likely put the TWU in a conflicted position.
- Although advisory hourly and casual rates are developed by the Victorian Government in consultation with industry, a contractor's pay is ultimately negotiated between the hirer and the contractor. In the case of taxi drivers, their pay is a proportion of the taxi fare which is regulated by government.

Inquiry finding

- ➔ While it is possible to enact legislation along the lines of the Contractors Act to cover the bailment system used with taxi drivers, the inquiry considers the framework under the Contractors Act to be unsuitable in the taxi driver context.

⁹⁰ TWU, Op. Cit., p.2

⁹¹ The rates and costs schedules are developed by the Minister in consultation with the Transport Industry Council and the Forestry Industry Council. These industry councils are established under the Contractors Act. The schedules contain information on typical fixed and variable overhead costs (such as vehicle registration, maintenance and running costs, business administration and insurance costs, self-funding of superannuation and so on) and the base hourly rates and casual rates that would typically apply to contractors if they were performing substantially similar work as an employee.

⁹² If alternative dispute resolution fails, proceedings may be brought before the Victorian Civil and Administrative Tribunal.

The inquiry notes that independent contracting is a legitimate form of work arrangement that operators and drivers may choose to use. As noted earlier, it is possible that some operators currently engage their drivers as contractors. Contracting offers certain benefits to hirers over employment, including the flexibility to respond to changes in the demand for services. The rights, entitlements, obligations and liabilities of hirers and contractors are governed by the terms of their contract and not by employment laws that, for example, set minimum wages and provide for leave and other entitlements.

The *Independent Contractors Act 2006* (Cth) (IC Act) regulates a number of different aspects of particular independent contractor relationships.⁹³ For example, the IC Act sets out a process for the judicial review of unfair or harsh contracts. The IC Act also regulates the extent to which a State or Territory law which seeks to regulate aspects of a services contract can actually apply to that contract and have effect in relation to that contract.⁹⁴

Requirement to engage drivers as employees

Several community legal centres, representative taxi driver associations, members of the community and some industry participants suggest that taxi drivers should be engaged as employees rather than under a bailment agreement. On the other hand, the ESC cautions that the direct regulation of driver employment conditions is difficult to administer and of uncertain benefit to the industry.⁹⁵

The inquiry regards employment as the most desirable way of improving drivers' pay and working conditions. The engagement of drivers as employees would attract better quality drivers and encourage their retention. This will clearly benefit the industry.

What are the pay and working conditions of employee drivers?

If a taxi driver is an employee in Victoria, they are entitled to the minimum standards set out in the *Fair Work Act 2009* (FW Act). These minimum standards are known as the National Employment Standards (NES). They are also entitled to the benefits of the *Passenger Vehicle Transportation Award 2010* (PVT Award).

If employed on casual basis, drivers are entitled to minimum wage, paid long service leave (provided they meet the continuous employment requirements), paid public holidays (if they are rostered on for the public holiday), unpaid carer's and compassionate leave and unpaid community service leave.

Under the PVT Award, Grade 2 employees include 'a driver of a motor vehicle, limousine or hire car capable of carrying less than 8 persons and used for hire or reward but excluding motor vehicles used for private purposes'. Accordingly, taxi drivers would be classified as Grade 2 employees.

Table 13.7 sets out the rates for adult Grade 2 casual employees. For casual employees, overtime rates apply to time worked over 38 hours per week or in excess of 10 hours per day. A number of allowances might also apply to drivers employed on a casual basis including, first aid, uniform allowance, meal and medical examination allowances.

⁹³ The IC Act protects the freedom of independent contractors to enter into service contracts. Section 5 of the IC Act defines a services contract as a contract for services: (a) to which an independent contractor is a party; (b) that relates to the performance of work by the independent contractors; and (c) has the requisite constitutional connection. A contract for services has the requisite constitutional connection if one of the parties to the contract is a constitutional corporation (s.5(2)(a)(i)). A constitutional corporation is a foreign corporation or a trading or financial corporation formed within Australia.

⁹⁴ Broadly summarised, the effect of the IC Act is that if a hirer in Victoria engages a worker as an independent contractor through a services contract where one of the parties is a constitutional corporation, then any Victorian law (unless excluded) that seeks to regulate a workplace relations matter listed in section 8(1) of the IC Act (for example, remuneration, hours of work, leave entitlements) will have no effect in relation to that hirer and that worker. The *Owner Drivers and Forestry Contractors Act 2005* (Vic) is excluded from the operation of the IC Act.

⁹⁵ ESC (2008b), Op. Cit., p.187 The ESC suggests other measures such as increasing the transparency of bailment agreements as a means of improving pay and conditions for drivers.

Table 13.7 Rates for casual employees

Base rate	Casual loading	Wage per hour*	Early / evening work*	Saturday*	Sunday*	Public holiday*	Overtime – first 3 hours*	Overtime – after first 3 hours*
\$17.14 per hour	\$4.29	\$21.42	\$24.00	\$30.00	\$38.57	\$47.14	\$30.00	\$38.57

* Inclusive of 25 per cent casual loading
Source: PVT Award

Casual employee rates average out to around \$26 an hour across the week, assuming no overtime and no public holidays.

If a taxi operator was required to comply with the NES or the Award and failed to do so, an employee taxi driver could initiate proceedings.⁹⁶ They might also be able to recover amounts owing to them under the FW Act or Award by invoking the small claims procedure.⁹⁷ The Fair Work Ombudsman is also able to represent a taxi driver in certain circumstances.⁹⁸

Drivers who are employees are also owed a duty by the operator under the OHS Act and the operator is vicariously liable in the case of a vehicle collision caused by their employee driver's negligence. Employee drivers do not have to obtain an ABN, register for GST and lodge BAS.

How could this be achieved?

Placing drivers within the industrial relations system could be achieved by deeming taxi drivers to be employees for the purposes of the FW Act or requiring operators to engage drivers as employees.

As there is no state-based industrial relations system in Victoria, there are several difficulties associated with any legislation that provides for drivers to be deemed employees for the purposes of the FW Act. First, there is doubt as to whether state legislation can deem all taxi drivers to be employees for the purposes of federal legislation. Second, specific state legislation will need to establish the terms and conditions of employment (in effect, replicating the relevant section of the FW Act). Third, the specific state legislation will also need to set out enforcement mechanisms and either establish a new industrial body or confer jurisdiction on an existing state body (for example, the Victorian Civil and Administrative Tribunal) to hear disputes.

Requiring taxi operators to employ their drivers rather than enter into bailment or contractual relationships with them could be achieved by enacting a new provision of the *Transport Compliance and Miscellaneous Act 1983* that deals with the engagement of taxi drivers.

Inquiry finding

➔ Given the technical legal difficulties and costs of enacting state legislation that deems taxi drivers to be employees for the purposes of the *Fair Work Act 2009*, requiring operators to engage drivers as employees would be the most feasible way of placing drivers in the industrial relations system.

What would be the impact of engaging drivers as employees?

While suggesting to the inquiry that taxi drivers should be treated as employees with minimum hourly rates, leave and superannuation benefits, Platinum Taxis Pty Ltd has cautioned that "operators do not have the financial capacity to fund a taxi driver as an employee".⁹⁹ The inquiry has also been told by several operators that their businesses will be unsustainable if they are required to employ their drivers.

The inquiry's analysis shows that there are some serious financial hurdles to treating taxi drivers as employees. These challenges are encapsulated in Figure 13.2, which contains information about the pattern of takings per hour across the week for a representative metropolitan operator. It suggests that there are several shifts in the week where, assuming revenues per taxi remain unchanged, wages payable (based on the current casual award rates) would be greater than total taxi earnings. In many other shifts, earnings are barely above wages.

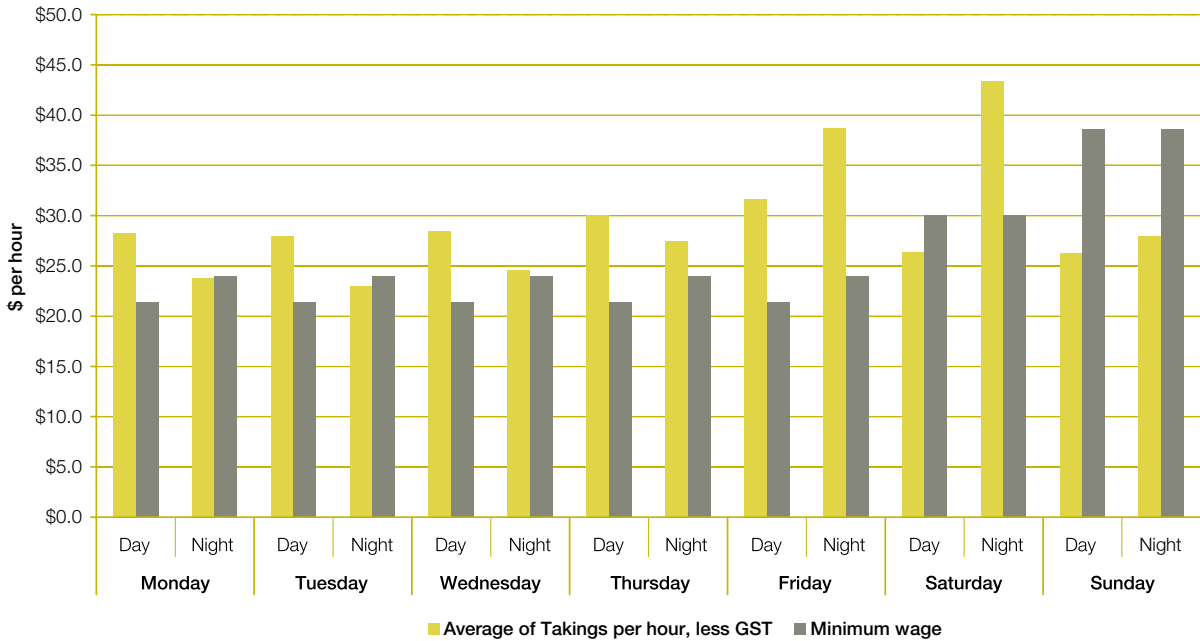
⁹⁶ Section 539 of the FW Act contains a table that lists all the civil penalty provisions under the FW Act, persons who may initiate proceedings in relation to them, the courts in which proceedings can be brought and the maximum penalties.

⁹⁷ See section 548 of the FW Act

⁹⁸ See section 682(1)(f) of the FW Act

⁹⁹ Platinum Taxis Pty Ltd, Submission to the Taxi Industry Inquiry, SS292, p.1

Figure 13.2 Comparison of average takings and minimum wages



Source: TII analysis of operator data

The inquiry’s analysis draws a simple comparison between current takings (including GST) and expected wages. However, it is clear that current behaviour would change to reflect any new employment arrangements. In particular, taxi operators will be much less willing to put vehicles out when expected revenues will not be sufficient to recover driver costs. There would be some shifts – nights early in the week, Saturday day shift and all of Sunday – where it would be distinctly unprofitable for the industry as a whole to put the same number of vehicles out as currently occurs.

The inquiry has considered several ways to model the effects on taxi operators of introducing minimum wages. The two simplest ways are to:

- Assume that operators continue to put vehicles out and accept the reduced margin
- Assume that operators will withdraw vehicles until a ‘break even’ margin can be earned for that shift.

The first option is clearly unrealistic. Because the minimum wage costs would be so much higher than current driver payment arrangements (which result in average earnings of around \$13 per hour after GST), there is no possibility that the same number of vehicles will be put out as currently occurs. Most operators that employed drivers would lose money (and possibly default on their assignments, where relevant) and there would be a distinct shift to operator-drivers (who could avoid payments).

The second option is more realistic but is difficult to model. It can be expected that operators will withdraw vehicles in those times where their expected demand would not result in shift revenue that would exceed the cost of vehicle operation (that is, ignoring fixed costs). This may result in many vehicles not operating on weekday nights and weekend days with those that do being able to operate profitably or at least make a contribution to their fixed costs.¹⁰⁰

100 This is not necessarily inefficient. Where the existing arrangements have encouraged a situation of excess supply (defined here as a situation where the marginal vehicle does not reduce the waiting time experienced by consumers), a reduction in vehicles can actually improve efficiency.

Given that there will be no greater ability to recover fixed costs in other, more profitable shifts, these operators will not be able to continue to pay the same assignment prices as they currently do. Accordingly, assignment prices must fall if the level of service is to stay close to its current level.

Those who will withdraw vehicles for particular shifts will be the least efficient operators. Those likely to not withdraw vehicles will be the more efficient operators, including those who can avoid the payment of a minimum wage (such as an operator-driver or licence owner-driver).

As noted above, the modelling conducted by the inquiry assumes all else is unchanged. However, there are four variables that could be adjusted to improve the prospects of the industry being able to afford the payment of minimum wages:

- Costs could be reduced, such as reductions in assignment fees
- Fares could be increased or restructured to support the changed cost structure of operators
- Other sources of revenue could be opened up to taxi operators, such as advertising and increased shared-ride services
- Extra demand could boost the number of trips, for example through customers being attracted again by improved service performance and through innovation like increase share ride and fixed route services.

The inquiry's judgement is that while these changes could support some increase in driver payments to more than the average \$13 per hour, the gap to achieving an average of \$26 per hour across the week is too large at this time.

Aside from issues with the level of wages, another issue is that the PVT Award does not seem well suited to the unique characteristics of the taxi industry. The troughs and peaks in demand for taxi services depending on the day of the week and the time of the day, and the average length of shifts worked by drivers are at odds with the overtime and penalty rates that must be applied under the PVT Award. Given the particular nature of the taxi industry, an industry-specific Federal award would be required to better reflect industry practice.

The impact of engaging drivers as employees will most likely be unsustainable if operators are required to engage drivers as employees in the short term. The better approach is to require operators and drivers to enter into a mandatory agreement that provides for better pay and improved working conditions for drivers.

Inquiry finding

- ➔ Any requirement for operators to engage drivers as employees will have a significant financial impact on the taxi industry – particularly taxi operators and their businesses – if implemented in the short term.

Requirement to enter into a mandatory driver agreement

Given the implications and costs of moving to employment arrangements, an alternative measure could be to require operators and drivers to enter into a written agreement that contains, at a minimum, certain model terms and conditions published by the Victorian Government. The mandatory driver agreement (Driver Agreement) would be a 'safety net' for drivers to provide for better earnings.

How could this be achieved?

Legislation would need to be drafted and enacted to require operators to engage drivers under a Driver Agreement. The proposed legislation would need to require each operator to:

- Ensure that each driver executes a copy of the Driver Agreement (unless they are engaged as an employee)
- Provide a driver with a reasonable opportunity to review the terms the Driver Agreement and seek advice with respect to the document before being required to execute it
- Ensure that each driver is given a copy their Driver Agreement
- Make available a copy of all executed Driver Agreements to the licensing authority upon request.

What would the minimum terms of the Driver Agreement be?

The terms of the Driver Agreement (as amended from time to time) would constitute the minimum conditions of engagement of any taxi driver in Victoria who is not engaged as an employee or who is otherwise not required to be engaged under the Driver Agreement.¹⁰¹ The terms of the Driver Agreement would be published, reviewed and updated (mostly likely annually) by the licensing authority.

The Driver Agreement could include clauses that provide that:

- The driver must earn no less than the amount specified in the Driver Agreement. The specified amount could be set as:
 - a minimum percentage of the revenue earned during the driver's shift¹⁰² OR
 - a minimum hourly rate for hours worked (with a higher rate for peak times than non-peak times) OR
 - either the minimum percentage or minimum hourly rate, as agreed between the driver and operator
- The driver must be allowed to take up to four weeks unpaid leave per year in certain circumstances (such as where the driver has worked for a particular operator on a regular and systematic basis for a period of 12 months)
- The operator must purchase third party property insurance at the level necessary to ensure that all drivers of the operator's taxi are covered in the event of an accident and must indemnify the driver.¹⁰³

The Driver Agreement could also include reference to any regulated rest break periods and contain clauses that:

- Set out the driver's taxation obligations¹⁰⁴
- Provide that the driver be allowed to engage in other paid work at any time
- Describe the service standards with which the driver must comply
- Detail the basis on which either party may terminate the agreement.¹⁰⁵

The proposed legislation might provide that an operator cannot contract out of particular service standards and that the licensing authority may penalise operators for any breach of such standards. In this way, operators would retain responsibility for service standards.

The Driver Agreement should not contain any clauses that have the effect of limiting or constraining the nature of the relationship between the operator and driver. For example, clauses in similar terms to clause 15 of the VTD model bailment agreement or clause 16 of the VTA model bailment agreement should not be included in the Driver Agreement.

If the Driver Agreement is to contain a clause requiring the payment of a bond by the driver as security for the performance of the driver's obligations under the agreement, then the agreement should also:

- Provide that any such bond be held by the operator on behalf of the driver in a separate account and, if held in an interest-bearing account, that the operator must account to the driver for any interest earned
- Provide that the operator must return the bond in full as soon as practicable after the agreement ends if the driver performs all his/her obligations under the driver agreement.

Minimum hourly rates

Minimum hourly rates could be linked to the rates of pay of a Grade 2 worker employed under the PVT Award, although as discussed above, moving to the full hourly rate immediately is not likely to be affordable. Instead, the inquiry considers a minimum hourly rate of between \$17 per hour to \$18 per hour across the week to be affordable, given other changes it is recommending to benefit operators. This would lift the average driver pay from one half of the average ordinary time casual award rate across the week to almost two thirds of that rate.

Moving to minimum hourly rates would bring increased costs to operators, therefore costs would need to be reduced and revenues increased. A major cost saving for operators will come from reduced assignment fees. Increased vehicle utilisation is also a critical factor. Current utilisation is very low – in 2011 average vehicle occupancy in the metropolitan area was only 28 per cent. Higher utilisation will increase revenues and reduce average fixed costs. Improved service performance and innovation are keys to boosting utilisation. Other benefits for operators will come from allowing advertising on vehicles and a more competitive market for network booking services.

¹⁰¹ For example, where the driver is an immediate family member of the operator

¹⁰² This choice of terms would not preclude a revenue share arrangement combined with minimum hourly rates, so long as the defined revenue share results in drivers earning no less than the minimum hourly rates

¹⁰³ See the end of this chapter for a discussion on vehicle insurance.

¹⁰⁴ Unless employed by operators, drivers would still be responsible for their own taxation obligations, including payment of GST.

¹⁰⁵ A basis for termination could be the breach of a service standard.

At some point it may be necessary for fares to rise to meet additional operator costs. However, fares are already inflated due to the effect of assignment values and because the effects of fare rises on revenues are mitigated by a demand effect: when fares go up, demand goes down. Whether this demand effect would itself be mitigated by an improvement in driver quality is uncertain. The inquiry is therefore of the view that higher driver payments must be funded primarily by reducing costs, increasing revenue and increasing utilization and demand.

The inquiry has undertaken some preliminary modeling on the basis of the following assumptions:

- An increase in vehicle revenue of just one average fare (\$25) per shift
- A reduction in costs of \$10,000 per vehicle (primarily through reduced assignment fees)
- No fare rise.

The inquiry's analysis shows that under these conditions a rise to \$17 per hour should be affordable for operators. This rate is an average and the inquiry considers it would be best spread across the week as follows to better reflect existing demand (and driver remuneration) patterns:

- Friday and Saturday night shifts (10 pm – 5am): \$28 per hour
- All other times: \$16 per hour.

Fares would also be restructured (but not raised) to peak and off-peak periods to align with the driver payments (this is discussed further in chapter 20).

Minimum percentage of the revenue

The minimum percentage of revenue earned during the driver's shift would be increased from the percentage currently applied by the majority of operators. This would essentially maintain the most common system of driver remuneration used in Victoria currently, but would change the balance between operators and drivers.

Determining an appropriate percentage split is challenging if the goal is to increase driver remuneration. The split of fare revenue could be determined in a similar way to that determined for the minimum hourly rate. An average rate of \$17 per hour would be equivalent to around 60 per cent of the revenue from the fare box, if the assumptions discussed above based on falls in costs and increases in revenues are accurate, and assuming there is no change to the number of vehicles on the road across the week.¹⁰⁶

The specific hourly rate under a higher fare box revenue split is, however, less certain than a minimum hourly rate because earnings are linked to revenue, which is dependent on the supply and demand for both taxi services and drivers. Driver remuneration depends on what taxi operators and other drivers do in response to the policy change. The analysis here is analogous to considering the effects of a fare rise under a 50:50 revenue split (see box *Why raising fares is not a good way to increase driver income*). In much the same way as the fare increase may induce more drivers to drive (and get more vehicles on the road at certain times), so may a move from 50:50 to something higher like 55:45 or 60:40. It is a less direct and therefore less effective way of increasing driver earnings.

¹⁰⁶ It would be around 65 per cent if there were no revenue increases on a per vehicle basis. If fewer vehicles were put out in response, the driver's percentage would fall below this because each vehicle would earn more revenue.

This point can be shown in a simple example, which is outlined in Table 13.8. Suppose we start with the current prevailing split of 50:50, which delivers drivers \$10 per hour, based on average earnings of \$20 per hour. Ninety per cent of vehicles are on the road, with the \$10 per hour not being enough to attract sufficient drivers to drive all available vehicles. Then we impose a split of 60:40. This will have two effects: drivers will be keener to drive shifts, as they would expect them to become more profitable, and operators will make less revenue per shift, and so may consider not putting their vehicles out. The net effect on driver earnings depends on the relative strength of these two factors.¹⁰⁷

- If operators withdraw vehicles to the point where the operator margin earned per hour is the same as before the change in revenue split, then the increase in driver earnings will be greater than the change in the revenue split. In the example, driver earnings per hour increase by 50 per cent (from \$10 per hour to \$15 per hour).

- If the higher potential earnings encourage drivers to want to drive at times which are not currently fully utilised by operators, then the effect may be to get more vehicles on the road. In this case, the driver earnings rate per hour will not increase by as much – only 9 per cent – even though there is more money for drivers overall (\$10,800 compared to \$9,000).¹⁰⁸
- Where both effects are present – more drivers but fewer operators willing to put vehicles out – an increase in driver earnings is still likely but the size would be uncertain. A perfect offset of the effects, with no change in vehicles on the road, would mean that drivers would earn 20 per cent more – the same percentage increase as the change from 50:50 to 60:40.

Table 13.8 Examples of effect of a change in revenue share from 50:50 to 60:40 on driver earnings

	50 per cent share	60 per cent driver share, operator withdrawal effect stronger	60 per cent driver share, effects offset	60 per cent driver share, more vehicles on road result
Total vehicles	1,000	1,000	1,000	1,000
Vehicles on road	900	720	900	990
Total fleet income per hour	\$18,000	\$18,000	\$18,000	\$18,000
Total operator income per hour	\$9,000	\$7,200	\$7,200	\$7,200
Per operator per hour	\$10.00	\$10.00	\$8.00	\$7.27
Total driver income per hour	\$9,000	\$10,800	\$10,800	\$10,800
Per driver per hour	\$10.00	\$15.00	\$12.00	\$10.91
Percentage change in per driver per hour income		50 per cent	20 per cent	9 per cent

¹⁰⁷ These examples make two simplifying assumptions; first, that the demand and revenue across the market is unaffected by the change in vehicles on the road (equivalent to assuming that having more vehicles does not stimulate demand); and secondly, that there is available capacity which could lead to more vehicles on the road. The inquiry's data shows that capacity is available at most times, with considerable capacity available at all times except for peak periods on Friday and Saturday.

¹⁰⁸ The inquiry also notes that if the restriction on vehicles is lessened, then even more vehicles may be on the road and driver earnings could be reduced further

The inquiry considers that, taking all of the factors into account, it is likely that driver earnings will increase if the split of the fare box is increased. Operators face many fixed costs, and these will not be affected regardless of whether vehicles are used or not. This gives operators strong incentives to keep vehicles on the road, so long as the variable costs of operating the vehicle (e.g. fuel costs) can be recovered. This suggests that any withdrawal of vehicles will be modest. The inquiry does note, however, that the example above also assumes no change in total vehicles. Changes to licensing policy may also change this variable, which may increase the vehicles on the road further and reduce driver incomes.

This analysis suggests that the appropriate size of an increase in the split of driver income is difficult to determine, as it will depend on both operator and driver behaviour in response to the change. On balance, the inquiry finds that a move to a 60:40 split together with the inquiry's other policies to reduce fixed costs and increase revenue would be appropriate.

Choice of minimum hourly rate or minimum percentage

A third alternative would be for the driver agreement to specify that the driver and operator can agree to either of the minimum hourly rates or minimum percentage of revenue (i.e. 60 per cent). This would allow some flexibility for operators and drivers to strike appropriate agreements for their particular circumstances, rather than mandating that all drivers must be on a uniform remuneration arrangement. Such a provision would also allow for drivers and operators to agree to a revenue sharing arrangement that was less than 60 per cent, so long as the driver's minimum hourly rate was no less than the specified minimum.

What is the preferred alternative?

The inquiry recognises that changing the remuneration of drivers by increasing driver's share of revenue would be a significant step. In addition, any move away from current revenue sharing arrangements towards minimum hourly rates would be a further source of concern for industry.

The inquiry is of the view that a case can be made for both of the alternative forms of remuneration.

The particular strength of a minimum hourly rate is that it would mean the extent of any pay increase is much more certain than for a more favourable driver revenue share agreement. This might be thought important in the light of the widescale proposed reforms to taxi and hire car licensing, which will have uncertain effects on vehicle revenue.

The inquiry is also unconvinced that the minimum hourly rate would create adverse incentive effects for drivers. In particular, the inquiry has heard a concern that, in busier times, drivers paid a minimum hourly rate will have little incentive to 'chase work'. This concern seems overstated. Employers have some obvious measures that can be put into place to encourage workers to work hard(er). In the context of taxis, employers could:

- Stay with a commission structure but provide a base hourly rate – such as pay the higher of the minimum hourly rate or 50:50 for a shift so that drivers would still have an incentive to earn over and above the minimum hourly rate
- Not engage drivers that deliver consistently poor returns at busy times (such as low average earnings or driving too many unengaged kilometres)
- Provide greater direction to drivers as to how to maximise earnings.

All of these options will be available to taxi operators if the inquiry's proposals are implemented. Operators also have direct access to data from the meter that informs them of their drivers' performance (e.g. how many jobs per hour, per shift etc) and should be responsible for monitoring and managing performance accordingly.

The inquiry expects that some taxi operators will still maintain that the incentives to drive productively are better under a revenue split arrangement and that introducing a compensation scheme such as a minimum hourly rate may allow less productive workers to remain as drivers.

However, even if this was the case, it does not mean the outcomes are the best for users. The claim effectively assumes that the only output that matters is passenger kilometres (and hence revenue). But it is apparent that passenger kilometres are not the only output measure that is relevant to a good taxi service. Offering a good quality of service depends upon many other factors than price. By encouraging drivers to chase as many trips as possible, and with the combination of very poor remuneration relative to other jobs, and little competition between drivers for fares (as most work is rank and hail, where competition is weak or non-existent), the current remuneration system offers little to no incentive to offer good service quality. Consumers may well prefer a different compensation scheme if it can deliver better quality drivers and vehicles – perhaps by making it more costly for a taxi driver to lose their job - and may take even more trips (and kilometers) if this occurs.

The inquiry has therefore reached the view that the incentive effects of the different remuneration schemes are of marginal importance to the decision as to which alternative is adopted.

A minimum hourly rate would have some disadvantages. It is relatively rigid to industry circumstances, and adjusting the minimum hourly rate over time would be complex, particularly for an industry regulator like the TSC.

The benefits of the enhanced driver revenue split arrangement are that it is consistent with existing industry practice, and likely to be widely understood by both operators and drivers. It should also deliver increases in driver earnings that are material, although the exact magnitude of this is quite difficult to determine. The revenue share model will be influenced by the responses of drivers and operators across the overall fleet (e.g. if more vehicles are out, the higher revenue accruing to drivers in aggregate will be split between more drivers which means that individual earnings might not increase as much as expected).

The disadvantage of the revenue share model is that although it may be effective in increasing driver earnings in the short to medium term, it is less clear that it will be effective in increasing driver pay in the longer term. It would link increases in driver earnings with increases in fares, but, as has been discussed, increases in fares only have an indirect link to increases in driver earnings because of induced behavioural changes.

The inquiry's finding is that both alternatives are likely to result in better pay for drivers, but that each alternative has limitations in dealing with the problem of low driver remuneration. At this point, the inquiry favours an enhanced revenue share agreement (to 60:40) over a minimum hourly rate, because this would be more consistent with current industry practice. The inquiry also considers that offering drivers and operators a choice between the two arrangements could offer some additional benefits.

The inquiry is interested to hear the views of industry participants, particularly operators, drivers and their representative associations on the merits of the alternative remuneration arrangements to be included in the Driver Agreement.

How should disputes about the terms and conditions of the Driver Agreement be resolved?

The proposed legislation to establish the Driver Agreement should give the VCAT jurisdiction to hear and determine contraventions of the Driver Agreement alleged by operators and drivers (and their representatives). The licensing authority should also be able to bring proceedings. The proposed legislation should provide that disputes must be referred to the Office of the Victorian Small Business Commissioner for alternative dispute resolution (such as mediation) before being able to proceed to the VCAT. The Office of the Victorian Small Business Commissioner currently undertakes a similar role for owner-drivers and forestry contractors under the Contractors Act. The VCAT's powers could include issuing an injunction to stop an actual or suspected breach of a Driver Agreement and ordering that compensation be paid to a driver in respect of any assessed under payment or breach of the minimum terms in a Driver Agreement.

How should the requirement to enter into a Driver Agreement be monitored and enforced?

The proposed legislation should also confer jurisdiction on the VCAT and the courts to hear alleged contraventions of the requirement to engage drivers under the Driver Agreement and should give affected taxi drivers and their representatives standing to enforce the requirement. The inquiry expects that the requirement to enter into a Driver Agreement should be largely enforced by affected taxi drivers and their representatives but that the licensing authority should be given the power to inquire into and investigate apparent contraventions and take steps to seek compliance and remedy contraventions when in the public interest to do so.

The licensing authority's functions might include:

- Educating the industry (permit holders and drivers) about the requirement to engage drivers under the terms of the Driver Agreement
- Monitoring the application of the Driver Agreement by conducting compliance audits including periodic reviews of a certain number of Driver Agreements submitted to the licensing authority to ensure that at least the minimum entitlements are contained in the agreements
- Proposing changes to the Driver Agreement
- Investigating serious contraventions of the requirement
- Issuing compliance notices to enforce the requirement.

Inquiry findings

→ Operators and drivers should be required to enter into a written agreement that contains, at a minimum, certain model terms and conditions published by the Victorian Government (unless drivers are otherwise engaged as employees). The Driver Agreement will act as a 'safety net' for drivers to provide for better earnings by setting a minimum percentage of the revenue earned during a driver's shift (or possibly by a minimum hourly rate arrangement or by allowing a choice between the two). This is critical to improve driver quality in the shorter term.

→ The affordability of the 'safety net' is a key issue. If a minimum percentage of the revenue is to be specified, the inquiry considers that drivers should get no less than 60 per cent of the revenue earned during the driver's shift. If minimum hourly rates are to be specified, the inquiry considers that a rise from the current level of earnings towards an average \$17 per hour across the week strikes a reasonable balance between affordability and the interests of drivers (and ultimately passengers).

Vehicle insurance

Taxi operators have raised vehicle insurance as a major concern, pointing in particular to the lack of reputable insurers and the poor practices of taxi clubs:

Taxi insurance is a serious problem; large amounts are paid for excess. Taxi Clubs operate in the form of associations with serious credibility issues and quick closures leaving owners/operators and drivers in economic dire circumstances... Taxi insurance needs to be sorted out. A credible and long term insurance needs to be established.¹⁰⁹

The inquiry has also heard concerning reports that some taxi clubs are failing to settle claims, leaving third party insurers to issue legal proceedings against taxi drivers seeking amounts as high as \$20,000. One driver told the inquiry:

I pay big bucks to dodgy [sic] private insurance company and still not cover and satisfy with them. There is a big big issue of taxi insurance no one cover taxi insurance.¹¹⁰

In its submission to the inquiry, Springvale Monash Legal Service Inc commented:

The community expects that the transport industry is safe. Taxis are no exception. When there are accidents, the expectation is that there is an accountable and transparent process, including access to insurance, to remedy any wrongs.¹¹¹

Court rules aim for a fair and quick resolution to disputed property claims, however the actions of many taxi clubs, seek to wear down those whose vehicles have been damaged by taxis, until, in our experience they give up and walk away.¹¹²

Case study

Traffic accident involving a taxi¹¹³

X was waiting for traffic lights to turn green in St Kilda Road. X's car rolled forward and "touched" the taxi in front. The taxi driver and X agreed that there was no damage done to either vehicle but exchanged vehicle details anyway.

About two weeks after the incident, X received a letter of demand from lawyers acting on behalf of the operator. Despite advising the operator's lawyers that no damage was done to either vehicle, the operator's lawyers threatened to issue a summons against X if she did not confirm the name of her insurer.

X's father wrote to the operator's lawyers requesting details of the damages sought. In response, X received a letter demanding immediate payment of approximately \$11,500. The repair quotation for the amount claimed was issued three days after the incident but was only provided to X some three weeks after the incident and only at X's father's request.

X advised her insurer of the incident and claim for costs. The insurer's lawyers recommended against defending the claim in court. They advised that the operator's lawyers would likely argue that the operator had the right to repair the taxi promptly so as to get it back on the road earning income and that, given X was clearly at fault, the court would likely award costs to the operator. The insurer's lawyers also advised that a negotiated settlement of some \$26,000 would probably be agreed to cover the alleged damage to the taxi, the demurrage costs and the legal costs.

109 Comment taken from response to Taxi Industry Inquiry taxi operator survey

110 Comment taken from response to Taxi Industry Inquiry taxi driver survey

111 Springvale Monash Legal Service Inc, Submission to Taxi Industry Inquiry, SS98, pp.2-3

112 Ibid., p.2

113 Incident described by Paul Grabham, Submission to Taxi Industry Inquiry, SS01, pp.4-6

The inquiry has been told that, in the case of an accident where their own insured is not at fault, insurance companies seeking to recover encounter various difficulties including that:

- It is common for the driver to provide a false name and address or, if they have been driving using another driver's DC, they give the name and address of that other driver
- Information about the identity of the operator is often not provided by the driver at the scene of the collision, or if provided, is often incorrect
- The VTD will not release the name and contact details of an operator unless compelled to do so by a court order
- Operators usually deny liability on the basis that the driver is a bailee
- Records kept by the VTD on licence assignments are sometimes not current or inaccurate so the insurer is unable to verify claims by the operator that the licence has been assigned to a different operator
- Taxi clubs (as indemnifier) often do not cover third party property claims.¹¹⁴

Suncorp estimates that it is currently writing off more than \$1.2 million per annum in Victoria. It incurs costs to identify the operator, recover the debt, write off costs and defend often exaggerated claims.¹¹⁵

Providers of cover

Given competitive and commercial sensitivities, and the prevalence of self-insurance in the Victorian taxi industry, the inquiry encountered significant difficulties in obtaining data about motor vehicle insurance coverage of taxis. The Insurance Council of Australia and several insurance companies were unable to provide detailed information about claims history and insurance products insofar as they relate to taxis.

However, the inquiry was told that many of the insurance companies that are regulated by the Australian Prudential Regulatory Authority (APRA) and governed by the *Insurance Act 1973* (Cth) do not insure taxis. These include RACV and Suncorp, which issues motor insurance under the brands AAMI, Apia, GIO, Shannons, Vero, Just Car and Bingle. It seems that the limited number of insurance companies that insure Victorian taxis generally deal through licensed brokers or discretionary mutual risk product providers¹¹⁶ and underwrite third party property insurance.

For example, Allsafe Insurance Brokers Pty Ltd (trading as Cabsafe Regional Taxi Insurance) arranges insurance through Wesfarmers General Insurance Limited (trading as Lumley Insurance). Cabsafe has specialised in regional taxi insurance since 1994, providing cover directly for regional taxi operators and also for insurance brokers.¹¹⁷

Another general insurance broker, Arcuri & Associates Pty Ltd, arranges insurance policies for Taxi Care Club Limited (trading as Taxicare Australia) through QBE Insurance (Australia) Limited. Taxicare Australia, a provider of discretionary mutual risk products in Australia since 1986, is regulated by the Australian Securities and Investments Commission (ASIC) and holds an Australian financial services licence (AFSL). Taxicare Australia will cover a third party claim for an amount up to \$5,000 but any third party property damage that exceeds that amount is handled by its underwriter QBE.¹¹⁸

¹¹⁴ Suncorp and Footscray Community Legal Centre, Submission to Taxi Industry Inquiry, SS152, pp. 6-7

¹¹⁵ *Ibid.*, p.8

¹¹⁶ Mutual risk products (MPRs) are risk products that provide an alternative to conventional general insurance products. A MRP scheme involves members contributing money which is pooled and held by the entity operating the scheme ('the MPR provider'). The MPR provider may use the pool of money to obtain group insurance to cover specified risks of the members and for paying claims by members up to a certain limit. In the case of a discretionary MPR scheme, the payment of claims or the provision of financial assistance is at the discretion of the MPR provider

¹¹⁷ See www.allsafe.com.au and www.taxiinsurance.com.au

¹¹⁸ Taxicare Australia, Product Disclosure Statement, 24 April 2006 (revised August 2009), p.8

Unlike Taxicare, other taxi clubs that provide discretionary mutual risk products in Victoria are generally incorporated under the *Associations Incorporation Act 1981* (Vic) (AI Act).¹¹⁹ Although a number of these taxi clubs may be underwritten by general insurers for third party property claims, a proportion of the clubs are not underwritten by an APRA approved insurer. Taxi clubs registered under the AI Act are not required to comply with Corporations legislation.¹²⁰ However, taxi clubs incorporated under the AI Act, do have statutory responsibilities to, for example, hold annual general meetings, lodge annual statements and maintain accounting records.¹²¹ As the body responsible for administering the incorporated association legislation in Victoria, Consumer Affairs should ensure that only non-trading, non-profit clubs are registered under the AI Act and should ensure that taxi clubs that are incorporated under the AI Act comply with their obligations under the AI Act.

Cost of cover

Several operators who responded to the inquiry's survey or who provided a submission to the inquiry have called for more affordable insurance.

A brief discussion on the range of premiums and excesses paid by operators (and in some cases drivers) is contained in chapter 20.

Insurance coverage

The inquiry has struggled to obtain sufficient data on the number of Victorian taxi operators that have comprehensive or third party insurance for their vehicles. OzCabbie quotes that an estimated 70 per cent of Melbourne taxis are uninsured.¹²² Given taxis spend considerable periods of time on Victorian roads, the lack of insurance is concerning.

As distinct from a private vehicle, a taxi is an income producing asset. The owner of the taxi business is the operator, with taxis being the workplace of taxi drivers. Insurance is a cost that should be borne by the business. Taxi operators in other Australian States and Territories (see case study) are currently required to maintain insurance policies with a corporation authorised under the Insurance Act 1973 (Cth) to carry on insurance business.

¹¹⁹ Under section 51(1) of the AI Act, an incorporated association must not (a) trade; (b) secure pecuniary profit for persons who are members of the incorporated association; or (c) as trustee, trade or secure pecuniary profit for persons who are members of the incorporated association

¹²⁰ refer section 53 *Associations Incorporated Act 1981* (Vic)

¹²¹ refer sections 30 and 30A of the *Associations Incorporated Act 1981* (Vic)

¹²² OzCabbie, Jan/Feb 2012, p.11

What's happening in other places?

New South Wales

Clause 131 of the *Passenger Transport Regulation 2007* provides that it is an offence for the operator of a taxi not to maintain insurance policies and provide evidence of their currency in accordance with the clause. The clause requires that:

- the operator maintain one or more policies that indemnify the driver for the time being of the taxi in relation to any damage (including any excess payable on a claim) arising out of the use of the taxi;
- the policies be maintained with a corporation authorised under the *Insurance Act 1973* (Cth) to carry on insurance business;
- the operator provide evidence of the currency of the policies to an authorised officer on request; and
- the operator ensure that evidence of the currency of the policies be carried in the taxi at all times.

Under section 32G(1)(d) of the *Passenger Transport Act 1990* (NSW), Transport for NSW may at any time vary, suspend or cancel any licence if the licensee does not have a policy of insurance covering third-party property damage in respect of the taxi-cab. The policy must be issued by a corporation authorised under the *Insurance Act 1973* (Cth) to carry on insurance business and must provide sufficient cover for the taxi-cab in the opinion of Transport for NSW.

Western Australia

Section 20 of the *Taxi Act 1994* gives the Director General power to impose conditions on the operation of a taxi using specified taxi plates in relation to, among other things, insurance requirements.

Australian Capital Territory

Section 111 of the Road Transport (Public Passenger Services) Act 2001 provides that it is an offence for an accredited operator of a public passenger vehicle (public bus, taxi, hire car or demand responsive service vehicle) to operate a public passenger vehicle if a public passenger vehicle policy for at least \$5,000,000 does not apply to the vehicle. A public passenger vehicle policy is defined as a policy that:

- is issued (or renewed) by a corporation under the *Insurance Act 1973* (Cth); and
- insures the accredited operator of the public passenger vehicle to which the policy applies against liability in relation to damage to property caused by, or arising out of the use of, the vehicle anywhere in Australia (whether or not on a road or road related area).

Inquiry findings

- ➔ A limited number of insurance companies insure taxis in Victoria. Those that do, generally underwrite third party property insurance through licensed brokers or discretionary mutual risk product providers (for example, taxi clubs).
- ➔ A number of taxi clubs that are registered under the AI Act are not complying with their legal obligations.
- ➔ The cost of insurance premiums should be borne by operators.

Chapter 14.

14. Hire cars

Key messages

- The nature and characteristics of the hire car market – a reliance on repeat business, small fleet sizes and a majority of demand coming from business/corporate users – mean that operators place great emphasis on the quality of their drivers, services and vehicles.
- There are high levels of customer satisfaction with hire car services and growing numbers of consumers are using hire cars due to quality concerns with taxis.
- Previous reforms have led to an expansion in hire car networks, creating an environment where innovation and flexibility in booking services are flourishing to a greater extent than in taxi services.
- Hire car licence categories and conditions, operator requirements and vehicle restrictions are complex, outdated and burdensome, act as barriers to entry and are difficult to enforce.
- Compared with some other jurisdictions, hire cars make up only a small proportion of the commercial passenger vehicle fleet in Victoria. High barriers to entry to the hire car market suggest that the demand for point-to-point services is not fully met by supply and that an opportunity exists for more entry to the hire car market and for a much-expanded pre-booked market.
- Current regulatory settings constrain competition in the pre-booked market, limiting the service outcomes that can be achieved for the travelling public. Reforms are needed to allow hire cars to compete more directly with taxis and encourage growth and alternatives in the market for point-to-point services.
- Problems associated with illegal practices such as touting arise largely as the result of a regulatory environment that is overly complex and difficult to enforce.
- The industry regulator needs to establish clear processes for consultation with the hire car sector and mechanisms for collecting information from the sector to better inform policy development.

Hire cars in Victoria mainly operate at the premium or luxury end of the commercial passenger vehicle market, providing a superior level of service at a higher price than taxis, particularly to the business and tourism markets.

Since regulation of the hire car industry began, hire cars have been perceived as a distinct service offering and a longstanding regulatory 'wall' has prevented the taxi and hire car sectors from converging on each other's markets, despite both undertaking pre-booked door-to-door services.

This chapter examines specific issues associated with hire car services raised with the inquiry in addition to the broader regulatory and competition issues examined earlier. In particular, the chapter discusses the impact of the regulatory framework on the performance of the hire car market and the ability of hire car services to deliver a broader range of services and to compete with taxis. The issue of touting and enforcing compliance with regulations is also examined.

14.1. Introduction

There are considerably fewer consumer concerns and complaints with hire cars than with taxis, possibly because customer satisfaction is particularly important to hire car companies as they rely largely on repeat business, word-of-mouth referral and corporate customers. Generally, hire car operators place much greater emphasis on customer services and are much more likely to 'self-regulate' for driver, vehicle and service quality than taxi operators.

As the hire car market largely meets demand for a premium transport service and for 'luxury' travel for special occasions, customers have few concerns about service availability. Hire car users do not expect hire cars to be available all the time; rather, they see hire cars as a discretionary service that must meet high standards of reliability, safety and quality for those opting to use them. Users also have few concerns about affordability: once a customer makes the decision to use a hire car in preference to a taxi, the higher cost is accepted as entitling the customer to a higher standard of service. Price is only an issue in terms of acting as a barrier to non-hire car users choosing to book a hire car rather than a taxi.

While there are concerns about hire car operations, these relate primarily to:

- High barriers to entering the hire car market
- Licence conditions requiring the purchase and operation of 'luxury' vehicles, which prevent a broader range and more affordable services from being developed
- Illegal touting by some operators (especially at Melbourne Airport)
- Restrictions that prevent hire cars from competing more directly with taxis, which stifle innovation and growth in commercial passenger services.

Many respondents to the inquiry point to the constraints on competition imposed on the hire car market by the current regulatory regime, including high barriers to entry, luxury vehicle requirements, the tailoring of the industry towards higher prices and restrictions on competing in markets currently serviced exclusively by taxis. These respondents argue that the cumulative effect of many years of hire car policy and regulation has been to protect the taxi industry from direct competition in the 'ready to ride' customer market and that a relaxation of these restrictions – or a more radical restructuring of the point-to-point market – has the potential to significantly improve the service options available to consumers.

14.1.1. Consumer research

Unlike taxis, there is no specific formal survey that measures customer satisfaction with Victoria's hire car services. However, the Department of Transport (DOT) advised the inquiry that complaints about hire cars are made far less frequently than complaints about taxi services. In 2011, of the 4,266 complaints made to the Victorian Taxi Directorate (VTD), only 50 (just over one per cent) related to hire car services.¹

The inquiry's commissioned customer research examined levels of satisfaction with hire car services. From 852 survey participants, satisfaction with hire car services (6.7/10) was higher than with taxis (5.4/10). Hire cars were seen as safer, cleaner and more reliable than taxis and offering a higher quality, more personalised service.²

The research found that a large part of the hire car market is business-related travel, especially in situations where companies have an account with a particular hire car company or operator. These customers observed that hire car companies have an incentive to provide a particularly high standard of service to sustain their relationship with corporate clients. Having an account with a hire car company also makes travel easy and convenient, as individuals do not have to personally arrange payment for trips.³

A small number of survey participants said they may occasionally take a hire car to the airport, as they generally find the service more reliable than a taxi. Others mentioned travelling on package holidays that include a limousine airport transfer. One participant commented that when living in an apartment, he had been more inclined to use hire cars as he often had trouble with taxis picking up the incorrect passenger, and this did not occur with hire cars:

Hire cars are run by smaller companies, so you're not lost in the system. They're more likely to show up.⁴

Several participants said they had used hire cars in the past for special occasions, such as weddings. Others had used a stretch limousine when going out with a large group of friends and wanting to drink alcohol while travelling around. Generally, those who used hire cars for such special occasions saw their purpose as limited to these sorts of events, and said they would not consider using a hire car under any other circumstances.

The research commissioned by the inquiry also measured the relationship between taxi and hire car use, finding that regular taxi users tended to use hire cars more often than casual taxi users, and that those who had experienced a problem with a taxi in the 12 months prior to the survey also tended to use hire cars more often than those who had not. Similarly, those people who used taxis predominantly for business had a higher frequency of hire car use than other groups of customers.⁵

Price was not raised with the inquiry as a concern by current hire car customers. While there is no clear evidence on this point, this appears to indicate that once a customer makes the decision to use a hire car in preference to a taxi, the issue of cost is no longer viewed as a concern, but becomes accepted as entitling the customer to a higher standard of service. If this expected standard of service is delivered, the customer is satisfied. This suggests that the current users of hire cars are relatively insensitive to price.

However, non-hire car users cited price as a key reason for not using hire cars. As one corporate taxi user commented in the inquiry's research:

[Hire cars] are expensive. That's the number one reason I don't use them more ... and they're not as plentiful as taxis. It's not the same market.⁶

This concern about price from non-hire car users suggests that a less costly hire car option (such as the minicab models operating in some other countries and cities) could expand the market considerably.

1 Complaints data provided to the Taxi Industry Inquiry by the VTD

2 Ipsos Social Research Institute (2012), Op.Cit. p.1

3 Ibid., p.54

4 Ibid., p.54

5 Ibid., p.38

6 Ibid., p.55

14.1.2. Submissions and consultations

The inquiry mainly received formal submissions and comments from industry participants in relation to hire cars. However, a small number of submissions were received from hire car users and the inquiry actively sought the views of hire car users in consultations with city-based firms, business and industry associations and representatives of the tourism and hospitality industries.

Driver quality

Generally, hire car users believe that driver quality is much higher in hire car services than in taxis. Respondents to the inquiry suggest that the hire car market tends to attract 'good' or experienced taxi drivers who are tired of dealing with anti-social behaviour from passengers or who have been prevented from offering a better quality service by operators. By contrast, hire car operators are seen as having a strong motivation to support professional drivers who take pride in customer service. One hire car operator notes:

Professionalism of hire car drivers is generally higher than taxi drivers, but many hire car drivers have made the transition from taxis ... The higher level of professionalism of hire car drivers is usually developed on the job, and usually with the support from the owners. There are no 'best practice standards' set for hire car drivers, but the measure of their professionalism is the return business. As return business is the cornerstone of the hire car industry, it is therefore no surprise that hire car owners expect and deliver a high quality of service.⁷

The inquiry heard from corporate users of hire cars who had chosen to move from taxis to hire cars for safety and comfort reasons associated with driver quality. For example, Wodonga City Council reported starting an account with a hire car provider to transport staff from Melbourne Airport to the city. Council staff told the inquiry this decision was taken primarily for occupational health and safety reasons as staff had concerns (and poor experiences) with the service provided by taxi drivers, including inadequate local road knowledge, unsafe driving skills and poor hygiene.⁸

Vehicle safety

Like taxis, hire cars are subject to annual testing by vehicle testers licensed by VicRoads. However, there do not appear to be the same concerns about vehicle standards as in the taxi industry. The key characteristics of the industry – a reliance on repeat business and word-of-mouth referrals, small fleet sizes and a majority of market demand coming from business/corporate users – mean that the emphasis on driver and service quality extends to hire car vehicles.

Touting

Tourism-related businesses, a number of hire car and taxi operators and some customers report concerns about the practice of touting by some hire car drivers inside the terminal buildings at Melbourne Airport and outside large city hotels. While this practice does not appear to have any significant impact on services for the Victorian community, it is seen as having an impact on visitors to Melbourne. Touting is viewed by Melbourne Airport and others as an issue of passenger safety and a practice with the potential to damage Victoria's tourism industry.⁹

Competition with taxis and potential markets

A number of corporate users of taxi and hire car services feel there is considerable scope for hire cars to compete with taxis and play a greater role in delivering 'premium style' taxi services. A 2009 survey by the Tourism and Transport Forum of business executives' attitudes towards service standards in the Australian taxi industry found that a majority of Melbourne-based respondents believed chauffeur hire cars and limousines could play a greater role in delivering taxi style services.¹⁰

Corporate users suggest allowing the branding of hire cars as 'premium', 'executive' or 'corporate' services and permitting them to charge higher fares for offering 'extras', such as higher standard vehicles, more experienced drivers and providing newspapers, mobile phones and other facilities in vehicles.¹¹

Many hire car operators also want greater scope to compete with taxis in the pre-booked market, arguing that such competition will generate benefits for customers through lower costs and better quality and more flexible services. These operators point out that advances in technology and the development of tailored services in both the hire car and taxi markets render these regulations increasingly obsolete.

⁷ Anonymous submission to the Taxi Industry Inquiry, SS111, p.10

⁸ Meeting with Wodonga City Council, 23 September 2011

⁹ See section 14.3

¹⁰ Tourism and Transport Forum 2009, Taxi Standards in Australian Cities, 16 December 2009

¹¹ See for example Ipsos Social Research Institute (2012), Op.Cit.

14.2. Market features

A hire car is a commercial passenger vehicle licensed by the VTD under the *Transport (Compliance and Miscellaneous) Act 1983*. There are currently 2,681 hire car licences operating across Victoria.

14.2.1. Supply of hire car licences

Metropolitan and country hire car licences are issued for pre-booked point-to-point commercial passenger vehicle work undertaken in luxury vehicles. Applicants are issued with VHA, VHB or VHC licence plates depending on their operational address. The licence issue fee of a Metropolitan Hire Car (MH) licence is \$60,500 (GST inclusive) (or \$40,000 for exclusive operation of a hybrid vehicle) while a Country Hire Car (CH) licence is \$20,500. Licences are traded at slightly reduced levels on the secondary market.

Special Purpose Vehicle (SV) licences are issued for the pre-booked carriage of passengers for weddings and tours. Restricted Hire Vehicle (RH) licences are issued for the pre-booked carriage of passengers in vehicles aged over 25 years, motorcycle/tricycle tours, 4WD off-road tours and vehicles with between eight and nine seats. SV licences are issued at a cost of \$2,000 (GST inclusive), while RH licences are issued free.

Hire car licences (with the exception of RH licences) can be transferred by application to the VTD, but are not assignable.¹²

Table 14.1 Victorian hire car licence numbers at December 2011

Metropolitan Hire Car licences	925
Country Hire Car licences	70
Special Purpose Vehicles licences	984
Restricted Hire Vehicles licences	702
Total	2,681

Source: VTD

The major differences between licence types are presented in Table 14.2.

¹² See sections 149(1) and 144(1c) *Transport (Compliance and Miscellaneous) Act 1983*

Table 14.2 Victorian hire car licence fees and conditions

	Metropolitan Hire Car	Country Hire Car	Special Purpose Vehicles	Restricted Hire Vehicles
Licence fee	\$60,500 (incl GST) \$40,000 (incl GST) for hybrid vehicle	\$20,500 (incl GST)	\$2,000 (incl GST)	Free
Registration plate	VHA or VHB	VHC	Private plates	Private plates
Types of operation	Luxury point-to-point, pre-booked services Permitted to carry passengers anywhere within Victoria	Luxury point-to-point, pre-booked services Permitted to carry passengers anywhere outside the metropolitan hire car zone. Permitted to pick up or drop off within the metropolitan zone but cannot complete a job that is wholly within the metropolitan zone.	Wedding hire and tours* Permitted to carry passengers anywhere within Victoria	Services not available through standard hire cars, such as motorcycle and tricycle tours, 4WD tours, vintage vehicle services Permitted to carry passengers anywhere within Victoria
Licence issue requirement	Licence issued 'as of right', subject to applicant being a fit and proper person and having the ability to pay the licence fee (Section 142(1) of T(C&M) Act 1983). Licence holder must have an operational address inside the metropolitan zone.	Licence issued subject to a public interest test that accounts for the needs of the area and the effect on the viability of existing services (Section 142(1b) of T(C&M) Act 1983).# Licence holder must have an operational address outside the metropolitan zone.	Licence issued 'as of right', subject to applicant being a fit and proper person and having the ability to pay the licence fee (Section 142(1) of T(C&M) Act 1983).	Licence issued 'as of right', subject to applicant being a fit and proper person (Section 141B(2) of T(C&M) Act 1983).
Vehicle specifications and standards	<p>Imported 'high end' luxury sedans, luxury hybrid vehicles (age limits apply to each category of vehicle)</p> <p>Stretched vehicles can operate up to a maximum of 25 years</p> <p>All vehicles must meet Australian Design Rule 440/02 (taxis and hire cars) relating to minimum internal vehicle occupant space dimensions</p> <p>All vehicles, other than hybrids, must have a manufacturers' recommended new car retail price (without optional extras) greater than the luxury car tax threshold that applies under the <i>A New Tax System (Luxury Car Tax) Act 1999</i>. In 2010/11, this threshold was \$57,466.</p>			<p>Vehicles made before 1 January 1943</p> <p>Vehicles made at least 25 years prior to the date of the licence application</p> <p>Vehicles that can provide a non-standard hiring service (such as motorcycles, off-road 4WD and adventure vehicles)</p> <p>Vehicles with capacity of 8 to 9 seats</p>
Vehicle testing requirement	Tested every 12 months by Licensed Taxi Tester.	Tested every 12 months by Licensed Taxi Tester.	RWC obtained 12 monthly.	RWC obtained 12 to 24 monthly.
Driver	Metropolitan taxi and hire car driver accreditation	Commercial passenger vehicle driver accreditation	Commercial passenger vehicle driver accreditation	Commercial passenger vehicle driver accreditation
Restrictions on licence numbers	Nil	The VTD will consider applications for Country Hire Car licences provided that the issue of the licence is deemed to be in the public interest, including having regard for taxi-cab or hire car services in the district	Nil	Nil

* Wedding hire includes travel for members of a bridal party travelling during the wedding ceremony day or travel to or from a debutante ball, school formal or funeral. 'Tours' are defined as where the licensed vehicle is hired for a continuous period and the passenger/s return to the place at which the journey commenced. A tour package is defined as a combination of services provided for a price comprising the hiring of a commercial passenger vehicle, accommodation, other services or facilities appropriate to tourists.

Government reforms in May 2002 eliminated the public interest test for hire car licences. However, following ESC recommendations in 2005, the public interest test was re-introduced for country hire cars.

Hire car licences are concentrated in the metropolitan zone. These include a high number of VHA/B licences that conduct a range of work, with a major focus on trips to and from Melbourne Airport. A large number of the SV and RH licences designed to conduct weddings and tours are also based in Melbourne.

Table 14.3 Geographic distribution of hire car licences

	Metropolitan	Regional
VHA/VHB	925	0
VHC	0	70
SV	755	229
RH	504	198
TOTAL	2,184	497

Source: VTD

The inquiry understands that generic (or standard) hire car conditions are attached to all licences issued since 2002. However, a number of SV licences – around 30 – that were issued a number of years ago have ‘open’ or non-standard licence conditions. Very little appears to be known by the VTD about these licences, making it difficult for the regulator to determine quickly and accurately the conditions attached to hire cars and raising concerns about its ability to monitor operator compliance with licence conditions. In particular, country hire car operators suggest that the VTD has little knowledge about the conditions attached to CH and ‘open SV’ (which can be used statewide) licences.¹³

The time taken for Victorian Government endorsement of a metropolitan hire car boundary and gazettal of a licence issue fee for country hire car operators meant that between 2002 and 2009, no country hire car licence was issued. The issue of country hire car licences currently falls under the *Transport (Compliance and Miscellaneous) Act 1983* public interest test, which requires the VTD to have regard to the interests of people who require or provide hire car services in the area of the proposed service.

Since the implementation of the 2002 taxi and hire car reforms by the Victorian Government, it has been relatively easy to purchase a MH licence.¹⁴ Licences are now issued ‘as of right’ and an unlimited number of licences have been available at a price set by the Victorian Government.

In 2004, the Essential Services Commission (ESC) reviewed hire car licence fees and concluded that the MH licence fee needed to be adjusted to a level significantly below the then market price of \$66,000 if substantial numbers of new entrants to the industry were to be encouraged. In its draft report, the ESC recommended that the new MH licence fee should be \$30,000 (plus GST), with an optional payment method of four annual instalments. The ESC also recommended a CH licence fee of \$9,000 (plus GST).¹⁵ Following a substantial number of submissions and consultations on the draft report, the ESC amended this recommendation in its Final Report to \$40,000 for MH licences and \$20,000 for CH licences, explaining that a more cautious approach was warranted to minimise hardship for existing industry participants.¹⁶ The Victorian Government subsequently lowered the MH licence price to \$60,500 (incl GST).

The 2002 reforms and lower hire car licence fees have led to a doubling in the number of MH licences. Licences have also been trading on the secondary market at slightly less than the cost of a new licence.

Figure 14.1 shows the impact of the 2002 reforms, with the market value of licences steady around the Government’s set price.

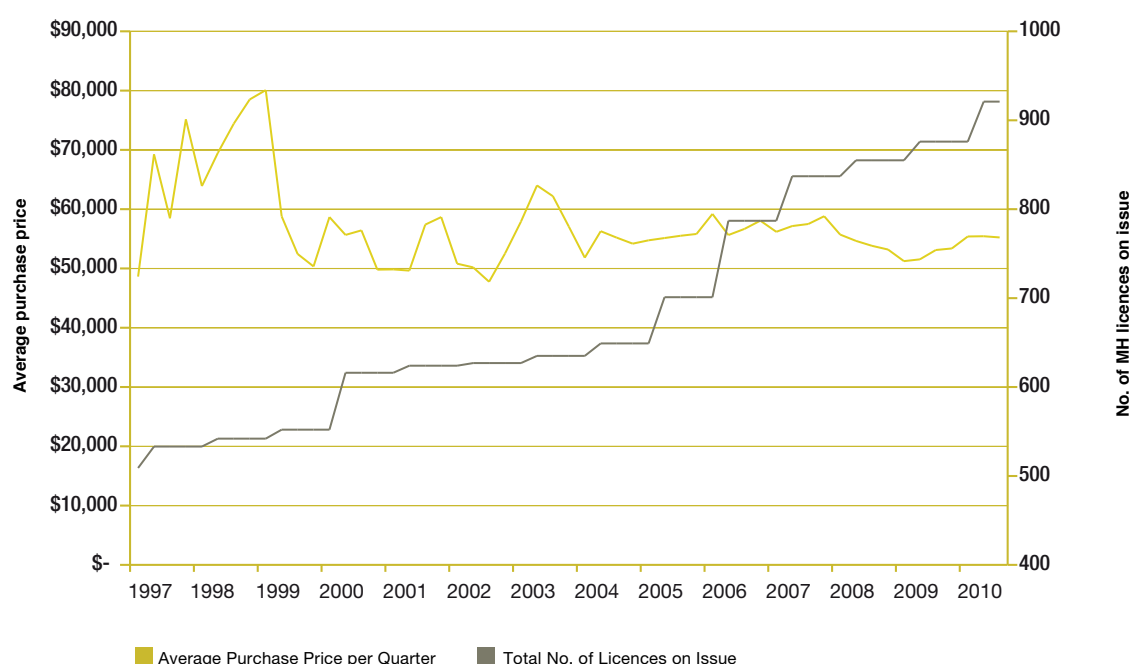
¹³ See Victorian Country Limousine Association (VCLA), Submission to the Taxi Industry Inquiry, SS54, p.1

¹⁴ From mid-2002, applications for MH licences were no longer required to demonstrate that the issue of the licence was ‘in the public interest’

¹⁵ Essential Services Commission (2004a), *Review of Hire Car Licence Fees Draft Report*, Melbourne, p.46

¹⁶ Essential Services Commission (2004b), *Review of Hire Car Licence Fees Final Report*, Melbourne, p.46

Figure 14.1 MH licences – Purchase price and number of licences on issue, 1997 to 2011



Source: Essential Services Commission (2004) and licence sales data provided by the VTD

14.2.2. Organisation of the hire car industry

The costs of licences and vehicles (particularly in the metropolitan Melbourne market) have influenced the composition of the industry, which is made up mostly of smaller operators. Some operators own a range of licences, operating metropolitan licences during the week and using their SV or RH licences for special events. A popular combination is to own one or more MH licences along with one SV licence. As shown in Table 14.4, the majority of hire car operators own one licence. In the wedding industry, operators own an average of four to five licensed vehicles.¹⁷

The restriction on assigning hire car licences also skews the market towards individual owner-operators. However, the inquiry heard from a number of operators who 'lease' their licences from an investor or larger hire car firm, subcontracting their services. While leasing or assigning is prohibited under the licence conditions, operators say the difficulty in detecting and enforcing this condition allows this practice to continue.¹⁸

Hire car services

Depending upon the conditions of the licence, hire cars perform a range of different point-to-point pre-booked services.

Table 14.4 Hire car licences per operator, MH and CH

Metropolitan						
No. of licences	1	2	3	4	5	6
No. of operators	555	92	21	11	3	2
Country						
No. of licences	1	2	3	4	>4	
No. of operators	43	7	3	1	0	

Source: VTD

¹⁷ Wedding Car Association of Victoria Inc, Submission to the Taxi Industry Inquiry, SS47, p.4

¹⁸ Taxi Industry Inquiry (2012), Hire Car Services Workshop, Royal Australasian College of Surgeons, unpublished

Table 14.5 Hire car services by licence type

MH	CH	SV	RH
Point-to-point work anywhere in Victoria Airport transfers Corporate functions Debutante balls School formals Funerals Tours – wineries, ski weekends, coastal tours Special events (Racing, Tennis) Bucks nights/ hens parties Restaurant transfer Birthdays	Point-to-point work anywhere in Victoria (except wholly within Melbourne) Airport transfers (country and metropolitan) Corporate functions Weddings Debutante Balls School formals Funerals	Weddings Debutante Balls School formals Funerals Tours	Weddings Tours and pleasure rides Tour packages 4WD activity Other services (RH 25years+ only)

Hire car operators

Hire car operators tend to drive their own cars, and are often the primary driver. From the inquiry's sample of 65 operators (representing 250 licences), the average amount of driving undertaken each week was 35 hours. Operators of MH licences averaged 45 hours per week.

Despite the move to 'as of right' metropolitan licensing, current operators tend to have been involved with the industry for some time. The inquiry's sample indicated that the average experience of operators was over 10 years, increasing to 12 years experience for those owning MH licences.

Hire car operators, particularly those in possession of an MH licence, have often had experience in the taxi industry, with some still maintaining an active involvement. The inquiry's operator survey found that around 60 per cent of operators with a MH licence had some previous involvement in the taxi industry. The majority of these operators left the taxi industry after the year 2000. For those without an MH licence, only 25 per cent had previously been involved with taxis.

The inquiry has received anecdotal evidence that many hire car drivers are former taxi drivers. This may reflect that, while taxi driving tends to be seen as a short term job, hire car driving is viewed as having long term income-earning prospects (especially where the driver is also the licence holder).

Hire car networks

The high number of individual hire car operators with small fleets places added importance on being part of a wider network, particularly for the more costly MH licences. Hire car networks operate by providing a central call point from where customers can decide on a range of hire car services, receive a quote and confirm a booking. Of the 65 hire car operators surveyed by the inquiry, around 50 per cent said they belonged to a network, although this number rose to approximately 70 per cent for those with a MH licence. The size of the network varies greatly, with some networks comprising as little as four operators while larger networks have many hundreds of members.

Formalised networks are defined by contractual agreements between drivers and the call centre or booking office. These networks can operate on a national or statewide scale, but generally cater for a city or town. Larger networks are characterised by a stronger web presence and listings in directories and industry publications. Their competitive advantage is their access to a larger fleet and wider range of vehicles, enabling them to cater to different customer preferences and provide a more immediate service across a wider area. Larger networks are more likely to charge membership fees, collected on an annual or monthly basis. Monthly fees tend to be in the range of \$40 to \$60, covering the placement of advertising and booking and dispatch infrastructure.

Smaller and less formalised networks tend to operate under a 'handshake' agreement. Operators enter into such networks to attract jobs, but also to offer alternative vehicles when they cannot cover a booking made through their businesses. Operators will enter into these arrangements with other operators whom they trust with an equivalent level of service. A high level of confidence in the network is considered important because of the need to generate repeat business. Asked to comment on the nature of these networks in the inquiry's survey, hire car operators commented:

Our network is a group of drivers we trust and share work with.

A selection process is put in place to make sure drivers who join are well presented, have clean and tidy vehicles and have great knowledge of Melbourne and Victoria.

We get assistance from other operators on an as needs basis. We share work between ourselves and with operators we can rely upon to undertake any work in a totally professional manner.¹⁹

In the niche market of wedding hire car services, many operators have become members of the Wedding Car Association of Victoria, which lists over 300 licences amongst its 65 members. The Association draws on a range of licence types (including 132 SV licences, 154 RH licences and 11 VHA licences) and advertises the services of its members through bridal magazines, wedding expos and a website.²⁰

Some more technologically advanced networks also exist within the hire car industry, operating by allocating bidding and points to members according to certain criteria. These networks provide incentives for operators to provide quality service and disincentives to prevent poor service. The Allcars case study describes one such network.

Networks often act as 'self-regulators' to maintain high standards within the hire car industry. Membership of a network usually requires agreement to terms and conditions, with non-compliance attracting penalties such as reduced bookings, financial penalties or removal from the network. Common conditions include meeting agreed times for confirming or arriving at a job, maintaining a high standard of personal appearance and a clean vehicle, safe driving practices, appropriate etiquette in talking to passengers and often no self promotion ('carding') when conducting work on behalf of the group.

The relatively free rein given to hire car networks to develop and expand has created an environment in which specific service offerings can form. In its submission to the inquiry, CabFare comments on the innovation of booking and payment systems in hire cars:

Development of innovation in dispatch in hire cars is a function of industry structure (i.e. lack of dominant players) and absence of legacy systems that need to be protected. This has allowed technical and service innovation to flourish with concomitant consumer benefit. This position in the Hire car segment is in stark contrast to that in Taxis in terms of innovation, technology and customer service.²¹

19 Taxi Industry Inquiry (2011), Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry', unpublished

20 Wedding Car Association of Victoria Inc, Op.Cit., p.3

21 CabFare, Submission to the Victorian Taxi Industry Inquiry, SS92, p.16

Case study

Allcars Booking Service

Allcars booking and dispatch service was developed in 2005 with the aim of using mobile phone SMS technology to modernise hire car booking services. The service has 285 cars directly contracted to the network. Allied to the booking service are a number of other booking services, increasing the pool of drivers to around 700.

The Allcars network receives bookings directly through online and phone enquiries to Allcars or by jobs being distributed to the network by member operators ('dispatchers'). A points based system is used to award the job to the operator with the highest points. Points are allocated for a range of variables, including experience of the operator, availability of EFT, the value of the vehicle and other service attributes. Bidding options are presented to the whole network, enabling a driver to bid a price depending on their preparedness to do the job. For example, a driver who is only a short distance from the job may be prepared to offer a cheaper price than a driver who is further away or who has overlapped bookings.

When a booking is made by the customer on the Allcars network, they are given a quote for the job. The quote is based on the taxi fare between two points, with service, time and location charges added. If the customer accepts the booking, the job is then cast to the network by email/messaging direct to drivers' smartphones using android technology. Drivers are given three minutes to respond to the auction and enter a bid for the job. The points for a particular operator, including those allocated to the price they are prepared to accept, are then used to calculate the winner of the job. An email is sent to the successful bidder with the customer's contact details. The customer is also sent a confirmation of the booking and the driver's contact details.

If a job is not accepted by an Allcar member within the three minute auction period, it is re-sent to a secondary network of providers. Generally, within six minutes of the quote being confirmed by the customer, the booking has been accepted by a driver.

The dispatcher of jobs on Allcars benefits from their listing as they receive the difference between the accepted bid and the quoted price to the customer. The Allcars booking service takes a 10 to 15 per cent commission of the price.

A new customer interface with the Allcars network, the DELUX app, also offers a way for customers to receive a quote for a hire car through their smartphones.

The inquiry heard from a number of networks that had invested heavily in providing new booking and fleet management tools, including iPhone apps and web-based software.²² Despite the growth of such networks, the hire car industry does not appear to have fleets of vehicles large enough to service the immediate dispatch market, as small firms have limited capacity to respond quickly when compared to the large fleets that can be dispatched by the taxi network service providers (NSPs). From the inquiry's discussions with around 40 MH hire car operators, jobs for immediate pick up made up less than six per cent of all jobs.

Hire car drivers

Hire car drivers are required to have:

- A metropolitan taxi and hire car driver accreditation – for those driving in the metropolitan zone
- A commercial passenger vehicle driver accreditation – for those driving in the country zone and those driving wedding and tour vehicles.

Most operators have one or more drivers for each vehicle they own depending upon the size of their fleets and the licence types they hold. The inquiry's survey of hire car operators found that metropolitan hire car drivers are engaged between 20 and 60 hours per week. Operators told the inquiry that most drivers are paid on an hourly basis, although some operators pay drivers on a weekly basis or have entered into revenue sharing agreements, such as a 50:50 split of fares. Hourly rates differ greatly, with some drivers receiving \$50 per hour while others receive as little as \$20 per hour.²³

²² Meetings between hire car operators and the Taxi Industry Inquiry, 15 February 2012 and 17 January 2012

²³ Ibid.

Some hire car operators employ their drivers under the *Passenger Vehicle Transportation Award 2010* (PVT Award). As noted in chapter 13, the PVT Award's provisions include minimum wage grades, expense related allowances (such as uniforms), accident pay, higher duties pay, superannuation, hours of work, overtime and penalty rates, leave and public holidays. Choosing to apply the PVT Award to drivers can have a significant impact on business operations and costs. For example, the award requires casual employees to be paid a minimum payment of three hours pay for each shift. For certain periods of the week, this could impact on the prices charged for hire car services or the times during which the service is offered.²⁴

Generally, hire car drivers have considerable experience 'behind the wheel', either through driving taxis or other commercial passenger vehicles. Drivers average around 14 years of driving experience, reflecting the importance of an experienced driver to a hire car operator in maintaining repeat business, as well as the high cost of the vehicle entrusted to the driver.²⁵ Discussing their method of recruiting drivers, one hire car operator comments:

*Over the years of operating taxis I have learned to pick and trust the cream of drivers who have transferred to hire cars and work with them.*²⁶

Most operators also have a strong focus on their own driver induction and training that includes personal driver training practices such as 'jockeying', understanding of regulations and codes of conduct, and trial periods. While drivers of MH vehicles are required to undergo taxi driver training, many operators feel this is not relevant to the particular service focus of hire cars:

*The VTD will not let us employ/contract drivers from outside their training pool. This is difficult for us because our drivers do not want to do the taxi test and the fee is too high. We believe we should be able to hire our drivers after they have done a police check and medical. Then we can be responsible for their training and inductions etc. Some of those trained by VTD affiliates believe that they have been taught everything when they arrive for interview yet most know very little and are unprepared and not suitable for the industry.*²⁷

Some operators would prefer to see relevant driver training provided through the accreditation process:

*We would like to see a new and better driver accreditation course developed in association with Hire Cars Victoria Inc to ensure that all drivers are properly trained to meet quality services standards for our hire car industry. Drivers should be trained in quality customer service, knowledge of Melbourne, vehicle presentation, event management tasks, driving capabilities and tasks using a variety of range and size of hire car vehicles. In this way we can be assured that all drivers from within our industry will be correctly accredited to perform their task to an optimum level.*²⁸

The inquiry is also aware of specific hire car driver training courses offered privately. For example, Limonow offers a training course to drivers of sedans and limousines, specialising in 'customer service, basic hospitality, basic first aid, basic self defence, etiquette, attire and uniform, record keeping, car maintenance and cleaning'.²⁹

Most operators also set their own high standards for driver appearance (including uniforms), punctuality, reliability and driving practices. These standards are maintained through regular feedback from customers, in-house testing, coaching and spot checks.³⁰

Despite hire car licence conditions stating that drivers must be employed by operators,³¹ most of the operators surveyed by the inquiry do not believe their relationships with their drivers constitute employment. Correspondingly, most operators do not withhold income tax, make superannuation contributions or pay sick or holiday leave. However, in the case of an accident, most operators say they will pay any claims made by a third party where their driver is at fault.

24 See Fair Work Australia, www.fwa.gov.au/index.cfm?pagename=awardsfind, accessed 23 March 2012

25 Taxi Industry Inquiry (2011), Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry', unpublished

26 Ibid.

27 Ibid.

28 Hire Cars Victoria Inc, Submission to the Taxi Industry Inquiry, SS109, pp.3-4

29 Limonow website: www.1300limonow.com.au/about-us/

30 Taxi Industry Inquiry (2011), Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry', unpublished

31 MH licence condition 19.3

Hire car vehicles

The characteristics of the hire car industry mean that the emphasis placed by operators on driver and service quality generally extends to vehicle quality and safety. The inquiry understands there is high compliance with the licence conditions on hire cars and that vehicles are kept to a high standard of presentation with regular maintenance and inspection. One operator explains the reasoning as follows:

Hire cars are generally maintained mechanically and aesthetically to a higher standard than a taxi. This situation may occur for two reasons, firstly most hire car operators are owner drivers and therefore rely on their vehicle for an income, so invest in maintenance. Secondly hire cars rely on their reputation, so a poorly maintained vehicle with the potential to break down, or a dirty car is not an appropriate image.³²

Consultations with operators reveal that the majority of hire car vehicles are purchased secondhand at a much reduced cost. This is especially the case for limousines, where the Victorian age restriction is more lenient than other Australian jurisdictions. One operator has raised safety concerns with the state of limousines, saying Victoria is the 'dumping ground' for these vehicles in Australia.³³

A Hire Car External Workshop hosted by the VTD in late 2008, attended by 200 hire vehicle owner/operators and representatives from the VTD and the DOT, noted that taxis and hire cars have different vehicle safety standards. Workshop participants felt that these safety standards should be the same.³⁴

Different types and models of vehicles are used depending upon the licence categories held by an operator.

Metropolitan and Country Hire Car licences

These vehicles must have a manufacturers' recommended new car retail price (without optional extras) greater than the luxury car tax threshold that applies under the Commonwealth *A New Tax System (Luxury Car Tax) Act 1999*. In 2010/11, this threshold was \$57,466. Despite the relatively high cost of a hire car vehicle, most of the 65 operators who completed the inquiry's survey say they own (rather than lease) their vehicle/s: 228 vehicles are owned while only 22 are leased.³⁵

The main vehicles used in these licence categories are Holden Statesmans/Caprices and Ford Fairlanes. A number of operators are concerned that these models are no longer being manufactured in Australia, forcing operators to turn to international markets to source vehicles that meet the luxury tax threshold.

Environmentally friendly hybrid vehicles were introduced to the hire car industry in metropolitan Melbourne in 2008, supported by a discounted MH licence fee of \$40,000.³⁶ Vehicles that meet a hybrid classification are also exempt from exceeding the luxury tax threshold. As of January 2012, there are 32 hybrid licences operating in Melbourne using Lexus RS/LS, Toyota Prius and Toyota Camry models. Operators say this low up take of hybrids is because hire car licence holders (and possibly customers) do not view hybrid vehicles as being in keeping with the 'luxury' image associated with hire cars. An example of a hybrid hire car fleet is Ecolimo, which operates in Melbourne and Sydney and bills itself as "Australia's first environmentally friendly limousine fleet".³⁷

Special Purpose Vehicle licences

A much wider range of vehicles is used in this category, although Ford Fairlanes, Hummers and Mercedes feature prominently. Most stretch limousines operate in this category, mainly servicing weddings, debutante balls, 'bucks' and 'hens' parties, and special events. A small number of these vehicles operate under MH licences allowing their unrestricted use for activities such as airport transfers.

Stretch limousines provide from six to 15 seats and are expensive to buy and operate. One operator notes:

The industry standard is no longer 6 pax Limousines competing/touting with VHA cars at the airport. 10 - 16 pax vehicles are now the preferred purchase. These \$200,000 - \$350,000 vehicles are not going to sit at the airport waiting for a \$60 fare to the city.³⁸

Limousines operating under SV licences are only permitted to conduct weddings and tours. However the inquiry understands that some limousine operators will work outside their licence conditions during the spring racing season, special events and festivals. As this comprises no more than five per cent of an operator's work, operators consider that it is not worth paying for a full MH licence to ensure compliance with the regulations.

32 Anonymous submission to the Taxi Industry Inquiry, SS111, p.2

33 Bruce Mossig (Victorian Country Limousine Association), Submission to the Taxi Industry Inquiry, SS54, p.2

34 Minutes from the Hire Vehicle External Workshop (November 2008), provided to the Taxi Industry Inquiry by the VTD

35 Taxi Industry Inquiry (2011), *Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry'*, unpublished

36 Victorian Government Gazette, No. S137, Monday 26 May 2008

37 Ecolimo website: www.ecolimo.com.au, accessed 3 July 2009

38 Bruce Mossig (Victorian Country Limousine Association), Submission to the Taxi Industry Inquiry, SS54a, p.1

Several submissions cite the conversion of a number of stretch vehicles operating on bus licences to an MH licence at no cost. A number of submissions query why all stretch limousines cannot be granted full operating rights.³⁹ Other submissions call for a distinct licence to be issued to stretch limousines at a different cost to that paid by sedan operators.⁴⁰

Following the 2002 NCP reform, a number of 'open SV' licences (those able to operate for 'weddings, social events and tourist activities') were reclassified as MH licences, subject to them meeting metropolitan hire car standards. There are still a number of open SV licences yet to be converted.⁴¹

Restricted Hire Vehicle licences

RH vehicles are specialised and vary considerably according to the purpose for which they are being used. They include vintage cars, tricycles and 4WD 'adventure' vehicles. One example are the Snowcats used by resorts in the Victorian Alps to ferry guests around in winter: these fall under the 'RH 4WD' classification.

Hire car bookings

The hire car industry organises the booking and dispatch of jobs through direct bookings with individual operators and formal and informal networks. Unlike the taxi industry, hire car operators are free to use any equipment they wish as there are no prescriptive regulations covering the booking systems to be used. The result is a largely independent set of booking systems across the sector.⁴²

Nearly all of the 55 operators who responded to the inquiry's survey say that jobs are booked directly with them. Around 35 per cent of operators receive their jobs through a central booking number and 19 per cent through online booking services. Only three of the inquiry's respondents say they receive bookings through a smartphone app. Four operators receive jobs directly from hotels.

For the booking and dispatch of jobs, the hire car industry largely uses mobile phones and pager networks to receive calls directly from customers. Operators who cannot service a job will often refer a job to another driver, either through voice or text messaging. Depending upon the driver's network arrangements, the job will be passed to an individual or cast out to a network, such as Allcars, where a bidding process may take place.

A number of hire car booking services also operate as centralised booking agencies, where a telephone operator performs a task similar to that of a taxi network service provider. Booking systems of this nature have a dispatch function similar to those in the taxi industry: however, unlike taxis where drivers use an in-car display, hire cars usually receive jobs via mobile phone.

The inquiry's survey of consumers of hire car services reveals interesting results in relation to bookings. All hire car users were asked which of a list of methods they had used for accessing a hire car in Victoria in the last 12 months, with multiple responses permitted. The most common point of access was 'phone booking' (43 per cent), followed by 'internet booking' (29 per cent) and 'at an airport' (24 per cent).⁴³ The last of these responses is not permitted under current regulations; however, this response is consistent with what the inquiry has heard about the high incidence of touting at Melbourne Airport.

Marketing

While hire car licences issued post-2010 have no restrictions on advertising, a large number of licences issued between 1997 and 2010 impose strict limitations on the placement, dimensions and approved content of promotional signage on vehicles. As a result of these conditions, advertising does not feature prominently in the current hire car fleet.

When asked how they promoted their businesses, over 90 per cent of operators say they advertise online, either through a business or network website or via ads taken out with Google, Yellow Pages or various wedding sites and forums. A large number of operators advertise in print in bridal magazines, Yellow Pages or local media. Wedding expos and contacts with tourism operators are also a popular way to advertise. A number of operators use business cards to advertise their services.

Word-of-mouth is considered a major marketing tool by operators in the corporate and wedding markets. Customers pass on good and bad experiences to friends, colleagues and family members, but also via websites and online forums.

39 See for example: Ron Hulme (Aberlene Limos), Submission to the Taxi Industry Inquiry, SS13, p.1, Hire Cars Victoria Inc., Op. Cit., p.2; Bruce Mossig, Op. Cit., p.1

40 Ron Hulme (Aberlene Limos), Op. Cit.

41 VTD (August 2011), *Hire car and SV licences – Matters for further consideration*, VTD Issues Paper

42 Rhumb Consulting Group (2011), Taxi Industry Inquiry Information Systems Review – Current and Future State Assessment, Melbourne

43 Ipsos Social Research Institute (2012), Op.Cit.

Fares and payment

Hire car licences require hiring rates to be agreed prior to the commencement of the journey. While hire cars are prohibited from using meters, many hiring prices are worked out using the taxi fare calculator as a basis, with premium charges and additional costs added on.⁴⁴

A number of operators told the inquiry that the price of hire car services has changed in response to increased competition between hire cars but also between hire cars and taxis. This observation was made by both hire car and taxi operators at Melbourne Airport. One operator notes:

The increasing competition through the issuance of extra licences, along with increasing costs, has resulted in an industry that is quite price-sensitive. The flow on effect is that we have observed many hire vehicle operators reduce their price to a point where they are effectively undercutting the more easily hired taxis.⁴⁵

Hire car rates differ greatly between the type of services, time of day, event type and distance being covered. Table 14.6 shows the average fares given by the 65 operators who responded to the inquiry's survey.

Table 14.6 Fare information from hire car operators (MH licences) (n=34)

Trip	Average	Range
<i>Route</i>		
CBD to Melbourne Airport	\$80	\$50 to \$200
CBD to Avalon Airport	\$132	\$70 to \$300
<i>Distance</i>		
10 kilometres	\$64	\$35 to \$200
100 kilometres	\$127	\$77 to \$300

Due to the efforts required to prepare a car and have a driver ready, operators say there is usually a minimum fare for any job. Some put this fare at around \$50, while others say they will not do a job for less than \$60. Fifty per cent of operators change their fares at certain times of the day, during peak periods or during special events. In these cases, a 20 per cent surcharge is commonly applied.

While the majority of hire car operators accept electronic transfer of funds, arrangements for payment and payment devices in vehicles differ greatly. From the operator survey, approximately half of operators have an EFTPOS terminal installed in their cars. Other payment devices include paper vouchers, corporate style accounts and Cabcharge.

CabFare's submission raises concerns with the inadequate protection of hire car customers, claiming practices occur with the potential to expose customers to credit card fraud and overcharging.⁴⁶ CabFare suggests that all hire cars be required to have a VTD-compliant EFTPOS terminal. While this would improve the accountability of credit card transactions for hire car customers, the inquiry has not heard from customers that this is a particular problem in the hire car industry. VTD complaints data for 2011 showed only one case of credit card fraud for hire cars, versus over 80 instances in taxis.⁴⁷

Revenue and operating costs

The operator survey asked participants to list their total revenue and operating expenses over a financial year. From a fairly limited sample of 21 operators, the average annual revenue for an operator with at least one MH licence is \$82,000 per sedan vehicle. On a per vehicle basis, these operators average approximately 60,000 kilometres per year (carrying passengers), with operating costs of around \$20,000 per year (not including payments to drivers). The highest cost for operators is fuel, averaging \$12,500 per year, while maintenance and repairs (average \$5,000) and insurance (average \$500) are other major input costs.

Only eight operators with stretch limousines responded to the survey. From their responses, the average revenue for limousines is \$72,500 dollars per year per vehicle, running for an average 21,000 kilometres carrying passengers. Average annual operating costs for a limousine are \$22,000, including \$6,000 dollars in fuel, \$2,300 in insurance and \$7,700 in vehicle maintenance and repairs. The inquiry also heard from operators who say they average only \$5,000 to \$7,000 dollars in revenue each year through servicing a wedding every now and then.⁴⁸

44 Meeting between the Taxi Industry Inquiry and hire car operator, 17 January 2012

45 Barton Chauffeurs, Submission to the Taxi Industry Inquiry, SS164, p.9

46 CabFare, Op. Cit., p.16

47 Complaints data provided by the VTD to the Taxi Industry Inquiry

48 Meeting between the Victorian Wedding Car Association and the Taxi Industry Inquiry, 21 February 2012

These findings are broadly consistent with the Victorian Hire Car Association submission to the Productivity Commission's 2002 *Inquiry into Price Regulation of Airport Services* which suggested that:

An average metropolitan hire car generates between \$4,000 to \$10,000 revenue per calendar month, depending upon the strengths of the operator's goodwill/customer network, the overall quality and reliability of the service provided and their respective level of availability.⁴⁹

14.2.3. Demand for hire car services

The demand for hire car services is largely a function of a regulatory framework that limits hire cars to specific roles. In addition, the perception that hire car services are more expensive than taxis, the small size of fleets and the large expense associated with having a vehicle and driver ready all have an effect on the demand for hire car services.

Distinct markets

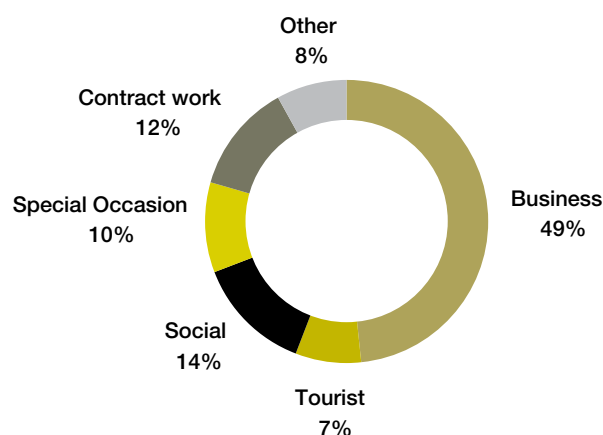
The demand for hire car services can be categorised into distinct markets including corporate clients, tourists, special events and contract work. The inquiry's operator survey shows the corporate sector as the largest customer base for the majority of hire car businesses, especially for those owning MH licences. Just under 50 per cent of MH licence holder work is business related. However, businesses with other licences report their work is concentrated more towards special occasions and tourist work (see Figure 14.2). Other work undertaken by hire car businesses includes contract work in the health and education sectors, and the transportation of airline crew, TAC and DVA clients, and film crews.⁵⁰

These results are supported by the inquiry's customer surveys. Those surveyed who used taxis predominantly for business had a higher frequency of hire car use than other groups, with five per cent of this group using hire cars 'weekly or more regularly'. The qualitative research confirmed that hire cars were predominantly used for business purposes, particularly where employers have an account with a particular hire car company or operator.⁵¹

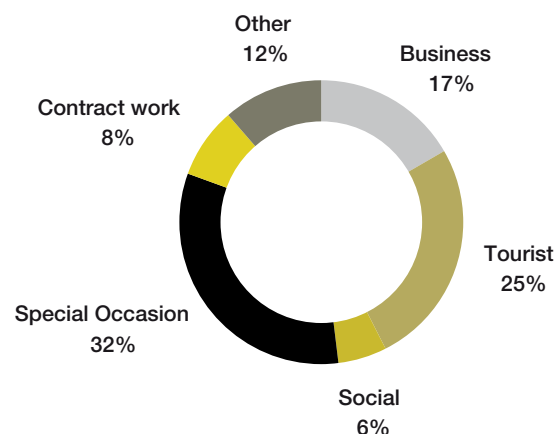
The inquiry believes that reducing entry barriers further would facilitate a 'new' service for lower cost markets that could effectively compete with taxis, particularly in the airport market.

Figure 14.2 Demand segments for hire cars in Victoria

Operators with MH licence



Operators without MH licence



Source: Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry

Jobs are mostly conducted on a pre-booked basis. Operators report that, on average, almost 90 per cent of jobs are pre-booked, while only six per cent are for immediate dispatch. In servicing the immediate dispatch market, operators report they can reach a client in between 10 to 60 minutes. These findings confirm that hire car businesses generally are not orientated towards immediate or 'ready-to-ride' hire.

Licence types and conditions also have a major impact on the peak periods of demand and number of jobs undertaken by hire car operators.

49 Victorian Hire Car Association (October 2001), Submission to Productivity Commission's Inquiry into Price Regulation of Airport Services, p.2

50 Information in this section has been derived from the Taxi Industry Inquiry (2011), *Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry'*, unpublished

51 Ipsos Social Research Institute (2012), Op. Cit.

Peak periods

Operators of SV and RH licences report their busiest times to be Fridays, Saturdays and Sundays, particularly Saturday and Sunday afternoons and Saturday nights. There is greater demand for SV licence services during the warmer months when a higher number of weddings are held across Melbourne.

MH and CH operations have fewer operating restrictions and are used throughout the week. Busy times reported by these operators are weekday mornings and Thursday, Friday and Saturday nights. The busiest events of the years serviced by hire cars are the Spring Carnival racing season, the Formula 1 Grand Prix, Australian Open Tennis, the AFL finals and New Years Eve.

Number of jobs

The inquiry's survey of hire car operator shows very different results for holders of MH licences compared with other licences. From a sample of 41 MH licence holders, the average number of trips conducted per week was 92. For those without a MH licence, the average was 13 jobs per week, with 60 per cent of operators saying they average 10 jobs or less in a week

The importance of the Melbourne Airport market

Work to the airport is the major source of income for metropolitan-based hire car operators. On average, these operators report that jobs to Melbourne Airport make up 77 per cent of their work. Half of the respondents to the inquiry's survey say airport work is greater than 98 per cent of their jobs.

The survey of hire car users found that travel to and from Melbourne Airport is the most common reason for using hire car services (39 per cent), followed by special occasions (22 per cent).⁵²

14.3. Regulation of hire cars

The VTD advised the inquiry that the main rationale for regulating hire cars is to "protect consumers ... and maintain an appropriate balance between the taxi and hire car markets".⁵³ Accordingly, as noted in section 4.3, a number of regulatory features – including licence categories and conditions – operate primarily to distinguish hire car services from those provided by taxis. The main effects of this regulatory approach have been to limit the provision of hire car services to 'high end' or luxury market segments and to constrain competition both within the hire car industry and between hire cars and other commercial passenger vehicles.

The key conditions governing the operation of hire cars in Victoria include:

- The licence holder must also be the registered owner of the licensed vehicle and (other than by transferring the licence), the right to operate the licence must not be assigned or leased to the control and management of any other person. In effect, these restrictions create an 'owner-operator' or 'owner-driver' model across the industry.
- The licensed vehicle must be maintained to a high standard of presentation and a number of requirements must be met in relation to vehicle price, age, condition and standards (see Table 14.2).
- The licensed vehicle must provide hire car services on a pre-booked basis only. Records of all bookings must be maintained and include specified information.
- Licence holders and drivers are not allowed to tout for business by personally approaching a person or by displaying advertising material.
- Hiring rates must be agreed between customer and hirer before hiring of the licensed vehicle commences.
- Subsidies available through the Multi Purpose Taxi Program do not apply to hire cars and hire cars do not provide wheelchair accessible services.

⁵² Ipsos Social Research Institute (2012), Op. Cit.

⁵³ VTD, Op. Cit., p.40

The Melbourne Airport hire car market

Under current regulations, hire cars are not allowed to transport passengers arriving at Melbourne Airport or Avalon Airport by plane unless a booking has been made prior to the arrival of the flight carrying the passengers.

A number of submissions to the inquiry raise concerns that these regulations are being flouted on a regular basis by some hire car operators and drivers, with implications for customer safety, the reputation of the hire car industry and visitor impressions of Melbourne and Victoria.

Hire car authorisation process at the Airport

In 2009, Melbourne Airport introduced a permit system for commercial vehicles to improve the safety, security and operations of the airport's landside environment. All commercial licensed vehicles and their drivers wishing to operate at Melbourne Airport must be authorised to do so by being issued with a Vehicle Authority and Landside Driver Authority (LDA).

Hire car operators are required to lodge a Hire Car Operator Registration Form prior to any new LDA or Vehicle Authority Form being accepted. The form requires information about the owners, vehicles and drivers of hire cars seeking to access the airport.

The LDA (also called the Melbourne Airport Driver Authority) is a permit for an authorised driver in an authorised vehicle to meet their customers inside the Melbourne Airport Terminal at designated chauffeur meeting points. All commercial vehicles collecting passengers must also have a Vehicle Authority that is issued in a similar manner to an LDA. The LDA is current for a 12 month period from the date of issue (unless cancelled or suspended earlier) and costs \$150 for a new issue and \$125 for each renewal. Each authorised vehicle is limited to two LDAs.

The terms and conditions for vehicle and driver authorisations include requirements to ensure that:

- Vehicles are covered by third party property insurance to the value of \$5 million
- No advertisements are placed on the vehicle at the airport
- Only designated parking or stands are used
- On request from an Authorised Person, drivers produce evidence relating to any pre-booked client by producing a log book with the customer's information

Drivers advise passengers that personal information (such as their name and contact details) may be disclosed to Melbourne Airport and its contractors and tenants in order to verify a booking is genuine.

To identify authorised vehicles and drivers, the Vehicle Authority sticker must be clearly identifiable on the front windscreen of the authorised vehicle, while authorised drivers are required to wear the LDA in clear view at all times anywhere within the Melbourne Airport Terminals, car parks or forecourt.

Touting at the Airport

Touting at the Airport is nominated as a major concern by taxi operators and drivers, hire car operators, Melbourne Airport management, tourism authorities, firms that rely on tourism and the VTD.

The terms and conditions for LDAs makes explicit reference to authorised drivers not soliciting for fares and not accepting any offer from a passenger to provide transport unless pre-arranged prior to the driver arriving at the Airport. Drivers must also not accept any booking referred to them by people operating as 'spotters'. Melbourne Airport may cancel or suspend authorisations for non-compliance with the terms and conditions of the LDA.

Many taxi and hire car operators feel that the VTD is not adequately monitoring touting at the Airport, despite the fact that it is being done openly and on a daily basis. Operators and airport workers describe hire car drivers without pre-bookings waiting by the luggage carousels or in the terminal doorways and approaching passengers with luggage and offering assistance. As one worker from the Qantas domestic terminal explains:

At times during the week there can be up to seven different drivers attempting to encourage passengers that they are a better option than the taxis, directly outside the terminal. Even during quiet periods of the day, there are at least three drivers loitering around the doorways of the building.⁵⁴

One taxi operator observes:

It is ... extremely disappointing that the DOT/VTD have not actively monitored the behaviour of hire car drivers at Melbourne Airport. It would only take a concerted effort by a number of inspectors for a short period of time and then one inspector on duty to regularly monitor the activities of hire car drivers, asking for pre-booking documentation or requiring drivers to 'move out of the terminal/airport' to rectify the situation.⁵⁵

Despite the new permit conditions banning touting at the airport, Melbourne Airport management told the inquiry that "to be fully effective, these new laws require enforcement".⁵⁶

54 Richard Spear, Submission to the Taxi Industry Inquiry, SS172, p.1

55 Ambassador Taxis, Taxilink, Cabways, Op. Cit.

56 Melbourne Airport, Submission to the Taxi Industry Inquiry, SS170, p.6. Also see section 14.4.5

14.4. Regulation, performance and reform

As noted already, a number of constraints on competition are imposed on the hire car services market by the current regulatory framework.

14.4.1. Barriers to entry

The costs of entering the metropolitan hire car market are significant and include the licence fee, providing a luxury or specialised vehicle that meets prescribed standards, administrative costs and marketing expenses. These combined costs are likely to be in excess of \$100,000, unless secondhand cars or hybrid licences are used.

A number of industry participants have told the inquiry that hire car licence fees are still too high, especially for an MH licence. Operators also comment that entry to the industry is made more difficult by banks often being unwilling to finance these costs.⁵⁷

High barriers to entry have resulted in a number of negative impacts:

- Restricted range of services – The requirement to provide a luxury vehicle means that operators are less likely to use their vehicle for more general purposes, such as servicing late night demand, for fear their vehicle will be damaged. Short fares are also not considered a viable option for hire cars due to the costs of preparing the vehicle and having a driver ready for the job.
- High use of Special Purpose Vehicle licences to conduct metropolitan work – A number of operators suggest that too many SV licences have been issued and that poor monitoring of these licenses means that a significant number are being used illegally. In particular, these operators complain that vehicles with SV licences are trading at Melbourne Airport, special events and other high profile locations on a regular basis. The Wedding Car Association of Victoria states that a number of SV licensed vehicles are performing functions outside their licence conditions and that greater control needs to be exercised by the regulator when issuing these licences.⁵⁸

- A large number of small operators – The high cost of entry has created many small firms and a highly fragmented industry that shares jobs through largely informal networks. The absence of larger fleets restricts the ability of hire cars to service the immediate dispatch market.

The high barriers to entry also suggest that the demand for point-to-point services is not fully met by supply and that an opportunity exists for more entry to the hire car market. The doubling of hire car licences that occurred following the 2004 reduction in licence fees suggests that a further reduction in entry costs will increase the uptake of hire car licences. The inquiry has heard from a number of potential operators who would like to start up fleets of hire cars and service a taxi-like market clientele, but who have been prevented from doing so due to the high barriers to entry. One such operator states:

*We need more hire cars to meet the needs of the customer. The cost of plates (\$60k) is the biggest hurdle. If they were \$20,000 it would make a huge difference to our ability to supply the increased demand.*⁵⁹

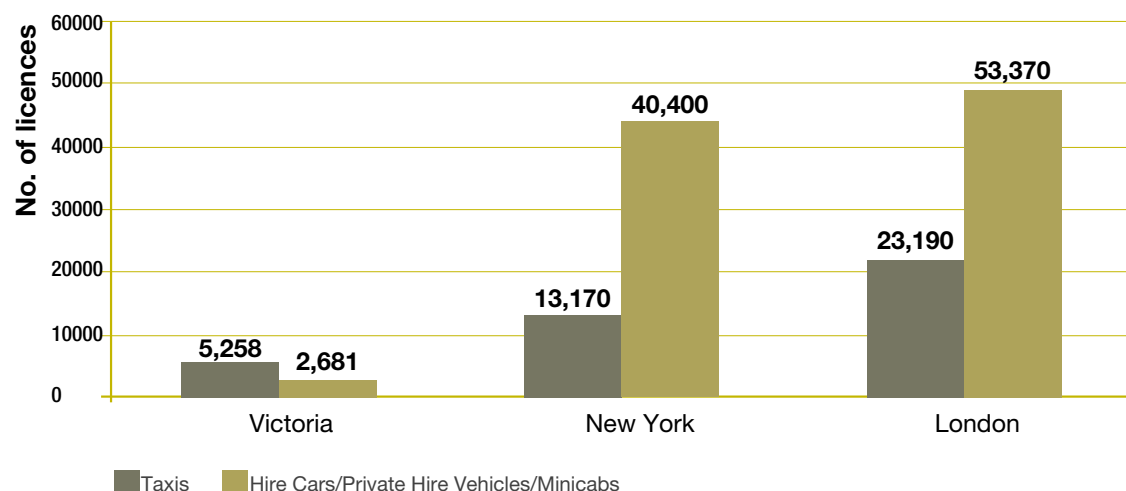
Compared with some other jurisdictions, hire cars make up only a small proportion of the commercial passenger vehicle fleet in Victoria. For example, in New York and London, an open entry approach has led to a far higher proportion of hire cars to taxis servicing the pre-booked market. Both cities have around twice as many livery or minicab licences as taxi licences (although it should be noted that taxis in these jurisdictions do not do pre-booked work). In Victoria, hire car licences make up just half the number of taxi licences (see Figure 14.3).

⁵⁷ One operator suggests the hire car industry is considered 'disreputable' by some banks as little is known about the structure or operation of the industry: Meeting between the Taxi Industry Inquiry and hire car operator, 17 January 2012. Other operators told the inquiry that they (illegally) lease their licence(s) and vehicle(s) as they are unable to afford the full costs of a licence

⁵⁸ Wedding Car Association of Victoria, Op. Cit., p.7

⁵⁹ Taxi Industry Inquiry (2011), *Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry'*, unpublished

Figure 14.3 Ratios of taxis and hire cars



Source: Data provided by the Taxi and Limousine Commission (New York City), Transport for London and the VTD

What happens in other places?

New York – New York Livery

The New York Livery (or For Hire Vehicles) is a pre-booked service that does not directly compete with New York's yellow medallion taxis, which conduct hail and rank work. The New York Taxi and Limousine Commission (TLC) has issued over 40,000 private hire vehicle licences under an open entry system including 23,000 livery licences. Livery licence owners are required to be affiliated with a base station to which they pay base fees. Fares are set by the base, with tariffs varying by neighbourhood. There are approximately 500 base stations located throughout five boroughs.

Cars must display stickers on the outside that show their base name, base licence number and base telephone number. The driver must display their TLC licence behind the drivers seat. Liveries must be dispatched from their bases and are not permitted to pick up from the street.

TLC estimates there are approximately 55,000 private hire vehicle drivers, with around 55 per cent owning their own vehicle. Livery vehicles transport more than 500,000 passengers every day. The average age of vehicles is seven years.

Taxi availability has been a major problem in New York's outer boroughs (those beyond Manhattan and the city's airports). This has led to growth in hire cars illegally servicing the rank and hail market in the outer boroughs. To address this problem, in December 2011 city officials announced plans to issue 18,000 permits over three years (commencing in June 2012) that will allow livery vehicles to pick up street hails in the outer boroughs and in upper Manhattan. The permits will not allow hail work south of 96th Street or at the two New York airports. The plan has been endorsed Mayor Michael Bloomberg as one way to address the shortage of taxis in the outer boroughs. In effect, the plan will legalise a practice that has occurred in the poorer neighbourhoods of New York for decades.

The permits will allow the livery vehicles to operate more like a taxi, with the owner granted a tradeable medallion (with limited operating rights). Vehicles will also be required to have meters, credit card readers and roof lights. They will also be required to look noticeably different from other taxis, with the regulator to decide on a uniform livery.

Inquiry findings

- ➔ Reducing barriers to entry to the hire car market (through the 2004 reforms) has contributed to greater competition and innovation, and increased networking within the hire car sector.
- ➔ Further freeing up of entry will continue to enhance the networking effect within the industry and provide opportunities for hire car operators to tailor their services to customer demand, especially areas of high unmet demand such as late night services.

14.4.2. Vehicle restrictions

Hire car vehicles are subject to value and age restrictions. These restrictions require metropolitan hire cars to be valued over \$57,000 (the luxury car tax threshold) and not be more than seven years old, unless imported (see Table 14.2). These restrictions effectively limit the hire car sector to 'high end', long wheel-based vehicles that are not necessarily appropriate to servicing a wider customer base and do not reflect any public interest objectives, such as those relating to safety.

The imposition of these restrictions is seen by some operators as a regulatory burden and a barrier to entry. A number of operators feel that the approved vehicle list is out of date and inflexible.⁶⁰ With a number of luxury Holden and Ford models no longer available, the luxury vehicle tax threshold often forces operators to spend more than is necessary to procure an approved car. These operators believe that removing the value threshold and introducing a new, more flexible list of approved vehicles is a more sensible option for the industry and one that will flow through to benefits for consumers.

Hire car operators are also constrained in their ability to advertise and brand their vehicles. Advertising lettering on vehicles must not be larger than 50mm and restrictions apply to what can be promoted. Again, these restrictions have little public interest rationale.

As one operator told the inquiry:

Branding and advertising on cars and trucks is allowed in every other industry without tarnishing or adversely affecting the reputation of that trade. (e.g. plumbers, florists, truck companies, buses, trains, etc). The customer still has the choice to use another chauffeur car that has no advertising and limited branding.⁶¹

Inquiry findings

- ➔ Easing vehicle value will encourage competition and innovation within the industry, allowing networks to target niche markets. Customer safety will not be compromised provided clear identification of vehicles is required and mandatory vehicle inspections continue to be carried out.
- ➔ Advertising and branding restrictions serve no clear public interest purpose and deliver no benefits to consumers. As hire car operators have a strong interest in providing a high quality service (or risk losing their clientele), removing these restrictions and allowing the industry to regulate them on its own terms is unlikely to jeopardise this standard of service.

⁶⁰ Submissions from operators also point out that the luxury end vehicle manufacturing industry in Australia is non-existent

⁶¹ Liz and Yuanna, Submission to the Taxi Industry Inquiry, SS367, p.1

14.4.3. Licence categories and conditions

As noted in section 14.2.1, the current categories of hire car licences have values ranging from zero to over \$60,000, depending upon vehicle type, the address of the operator and the vehicle's function.

Understandably, operators who paid \$60,000 or more for a MH licence are aggrieved when seeing a licence that cost \$2,000 dollars operating in the same way and in the same market. At the other end of the spectrum, those operating vehicles on \$2,000 SV licences argue that SV licence conditions are too restrictive. Overlaying these criticisms is the widespread belief within the sector that little is done by the VTD to enforce compliance with licence conditions (see section 14.4.5).

Specific concerns raised with the inquiry in relation to licence categories and conditions include:

- A total overhaul of licensing types and conditions is needed, as summed up in one operator's submission to the inquiry:

We currently have an unworkable set of commercial passenger licences which overlap, are outdated and not applicable to current vehicle types and standards, and consequently are not adequately catered for under the current commercial passenger licence categories.⁶²

- Too many SV licences have been issued (see section 14.4.1) and operator compliance with SV licence conditions is poorly monitored, especially in Melbourne. SV condition definitions are also seen as too broad and open to interpretation, with one operator noting:

The word 'tour' and its interpretation is the most controversial factor in licensing conditions. It is ambiguous and open to interpretation. This has often led to disputes between the VTD and limousine operators.⁶³

- The VTD does not have complete knowledge about the conditions that apply to all issued licences (see section 14.2.1).
- New categories of licence should be considered that better reflect the current reality of the industry. In particular, some operators suggest there is room for a new 'limousine licence' category valued between an SV and MH licence, which is permitted to operate from Melbourne Airport.
- A number of requirements on licence holders are outdated or irrelevant, such as requiring bookings to be recorded in a bound journal and requiring annual licence fees to be paid in person or by sending a cheque (with no electronic payment options allowed).

Inquiry findings

- Hire car licence categories, conditions and requirements are complex and outdated, deliver no obvious benefits to consumers and create unnecessary burdens and problems for both the industry and the regulator.
- Existing hire car licence categories unnecessarily constrain business activities and inhibit innovation. A flexible single pre-booked passenger vehicle licence model would simplify the regulatory environment for incumbent industry participants and the regulator, as well as encouraging new entrants.

⁶² Hire Cars Victoria Inc., Op. Cit., p.1

⁶³ Wedding Car Association of Victoria, Op. Cit., p.9

Case study

Addison Lee – a case study in technological innovation

Addison Lee is the largest minicab hire car operator in London, having distinguished itself from the broader minicab model. The company began in 1975 and now has 2,400 vehicles in its fleet. During 2010/11, Addison Lee reported a turnover of £105 million, up 19 per cent on the previous year.

Addison Lee has partnered with software developer Haulmont to deliver an automated booking, dispatch and traffic management system that covers their entire business operation. Passenger bookings are allocated automatically to drivers via mobile phones, GPS tracking and route finders, and then information is sent back to the customer via text messaging. The automated allocator program uses a series of variables to work out where the most appropriate driver is for each job. The program is capable of processing up to 10,000 jobs per hour, delivering fleet efficiencies and timeliness of service. The average response time in London is four minutes.

Addison Lee distinguishes its service through a standardised fleet of black Ford Galaxy and Volkswagen Sharan people movers. The firm has a distinctive logo, which features on the rear windscreen and in promotional material.

Journey time software has allowed Addison Lee to compete directly with black cabs. GPS tracking and journey planning has given drivers a similar level of geographic knowledge to those required of black cab drivers. Addison Lee journeys are on average 35 per cent cheaper than black cabs, although black cabs are cheaper for short journeys.

Drivers rent vehicles from the company and are allocated jobs using the software system. Drivers must first work at least six months for another taxi/hire car company before being eligible to apply for work at Addison Lee.

Addison Lee launched a smartphone app in 2010, which now accounts for £21million revenue each year and 15 per cent of all journeys.

14.4.4. Restrictions on competition with taxis

Regulatory restrictions on hire car services limit their ability to compete in other commercial passenger markets. This view has been put forward in previous reviews, including those conducted in the late 1990s by the National Competition Council, the Productivity Commission and KPMG.⁶⁴ For example, the Productivity Commission stated:

In Australia, owing to entry restrictions, hire cars tend to operate predominantly at the premium end of the phone market, but conceptually they are no different from taxis in responding to phone bookings. As the development of the United Kingdom minicab industry demonstrates, without entry controls there would most likely be a wider range of hire car operators offering both higher and lower quality levels than taxis presently offer.⁶⁵

The 'luxury' component of hire car vehicle standards has its origins in reforms implemented by the Transport Regulation Board in the mid-1970s. In a review of hire cars and related services in 1983, a letter to industry participants from the Board discussed the reasons for this change in policy:

Metropolitan Hire cars had an unstable existence in the hands of a number of individual owners until 1973, when the Board set about stabilising the industry by introducing standards and conditions for hire car operations and developing a superior limousine service in Melbourne.⁶⁶

The change in policy further differentiated hire cars from taxis by tailoring the hire car industry towards a higher fare. The Transport Regulation Board's 1983 'General Metropolitan Hire Car Policy' stated:

Since March 1975 the taxi meter has not been part of hire car operation and hiring charges have been on the basis of agreement between the hirer and operator with the understanding that these rates should be appreciably higher than taxi fares.⁶⁷

⁶⁴ See chapter 7

⁶⁵ Productivity Commission (1999), Op. Cit., p.7

⁶⁶ Circular Memorandum to interested parties from C J V Smith, Secretary of Transport Regulation Board regarding a Review of Hire Car and Related Services, 3 June 1983

⁶⁷ Ibid.

These regulations protect the taxi industry from direct competition in the pre-booked market.

Both the taxi and hire car sectors have told the inquiry that they do not actively seek out each other's customers in the booked market. In its response to the 2004 Hire Car Licence Fee review, the VTA stated:

The reality is that hire cars are to taxis what long distance luxury cruising coaches are to suburban route buses. They have similarities, but would hardly be seen by most observers as substitutes for one another.⁶⁸

While taxis and hire cars can compete in the booked passenger services market, the requirement for hire services to be pre-booked prevents them from competing with taxis in the 'street' (rank and hail) market, irrespective of whether demand might exist for their services in particular locations. One obvious example is at Melbourne Airport, where travellers may wish to use a hire car, but cannot do so unless they have pre-booked the service before boarding their flight.

The distinction between pre-booked services and rank and hail is becoming increasingly blurred due to the growing use of mobile phones (particularly smartphone applications) to book taxi and hire car services. Mobile phones allow callers to book hire car services from the street, with the potential response time being very short.

These developments mean that, while the caller's initial contact with the hire car service is from the street, the service can still be classified as 'pre-booked', provided all licence conditions for pre-booking are met. This may occur even where the time between booking the service and commencing the hire is very brief. This opens up the potential for hire cars to compete with taxis in the rank and hail market.

Marketing of these smartphone apps is targeting a taxi customer base that requires ready-to-ride services, particularly customers who are unable to source a taxi late at night. As the inquiry heard from Allcars booking service, some hire car operators have realised the potential in combining networks with mobile phone technology to deliver rapid responses to website/text message inquiries and bookings. The increase in the number of hire car licences in recent years has also led to increased competition with taxis. Hiring rates are now frequently much closer to taxi fares and taxis are encroaching into traditional hire car areas. Some taxi operators now offer premium services in the pre-booked market through the provision of 'silver' services and better quality vehicles.⁶⁹ Some secondary networks of taxi drivers are also marketing themselves as providing more customer-focused 'premium' services.

The restrictions on hire car vehicles also places limits on the ability of operators to reduce their costs and offer cheaper fares (by using less expensive vehicles). Without the flexibility to choose vehicles that suit the needs of their own business, as well as their customers, hire car operators are effectively impeded from competing with taxis and other commercial passenger vehicles. Despite this, the current difference between taxi and hire car prices is not as significant as many consumers appear to believe.

68 Victorian Taxi Association (April 2004), Submission to the Essential Services Commission Review of Hire Car Licence Fees, Issues Paper, p.1

69 Where the vehicle and the driver/s meet the affiliated NSP requirements for provision of premium service, the taxi operator may apply to the VTD for a temporary permit to authorise the driver to apply a premium service surcharge of \$11.00 (including GST) in addition to the total metered fare. A number of conditions must be met to apply the surcharge, including the hirer requesting a premium service, the depot advising of the surcharge, a specified vehicle being used and an accredited driver provided. Permits are issued by the VTD for 12 months at a cost of \$23

Table 14.7 Comparison between taxi and hire car prices (metropolitan area)

Trip type	Taxi ⁷⁰	Hire car ⁷¹
Melbourne CBD to Melbourne Airport	\$53	\$80
Melbourne CBD to Avalon Airport	\$108	\$132
10 km trip	\$20	\$64
100km trip	\$165	\$127
Surcharges	Phone bookings: \$2.00 Late night surcharge: 20% Silver service: \$11 booking fee Tolls	20% special events and late night (by some operators) Other costs built into the hiring charges

Relatively poor consumer knowledge about the costs and types of hire car services available acts as a further constraint on competition between hire cars and taxis. While this is partly explained by the sector's structure (no large formal networks to collectively market hire car services) and organisation (no peak service body), there is also relatively little active marketing by individual hire car operators. The inquiry believes there would be far higher demand for hire car services if they were better understood by the travelling public. The UK minicab model provides a good example of a well-known and well publicised transport option for late night travellers when public transport options are limited.

Inquiry finding

- ➔ Current regulatory settings constrain competition in the pre-booked market between hire cars and taxis, limiting the service outcomes that can be achieved for the travelling public. As a result, the potential for hire cars has not been fully tested.

Specific regulatory issues that affect country hire car operators, including 'two tier' zoning and the application of the public interest test are discussed in chapter 16.

⁷⁰ Taxi fares based on Tariff 1 fares from schedule of fares on VTD website, accessed 2 April 2012 at www.transport.vic.gov.au/taxis/customers/taxi-fares-in-victoria#metropolitan

⁷¹ Hire car prices based on *Findings from the 'Victorian Hire Car Operator Survey for the Victorian Taxi Industry Inquiry'*, (2011) Op.Cit.

Case study

UK minicab market

'Private hire vehicles' is the term used for minicab services, chauffeur and executive car services, and specialised services (such as wheelchair accessible vehicles) in Britain. Within this category, the minicab is a pre-booked service that is not allowed to compete with London's black cabs for hire from the street. Licensed minicab operators are contacted by phone, email or at a minicab office. Fares are agreed in advance and the driver is required to keep records of the booking.

Legislation governing the use of private hire vehicles has existed since 1976, with specific legislation for London passed in 1998. The legislation sets out requirement for operators, vehicle keepers and drivers. A key principal of the legislation is that, while the regulatory structure ensures safety and service standards, market forces are the key driver of operator distribution, number of vehicles, hours of work and so on.

Opposition from the taxi industry meant that licensing of operators was not introduced until 2001. Licence requirements include the need to have a licensed operating centre through which bookings are made, recordkeeping, complaints handling and drivers who meet certain conditions. There are approximately 1,000 small operators (with less than three vehicles) and 2,000 standard operators currently licensed in London.

Driver licensing commenced in 2003, with a 'fit and proper' test. Drivers' good character is checked through an enhanced Criminal Records Bureau check, a medical assessment, a check that a driver's licence has been held for three years and an assessment of the driver's topographical skills. Despite these requirements, it is possible for a driver to become licensed within 16 weeks. The criminal check is repeated during the renewal of licences every three years. There are currently 60,000 licensed private hire drivers in London.

The annual licensing of vehicles commenced in 2004. Vehicles must be of a good standard and suitable for safely carrying the number of passengers for which they are licensed. A wide variety of vehicle types is used, but vehicles cannot be similar in appearance to a London taxi. There are now approximately 53,000 private hire vehicles. Vehicles are subject to two Ministry of Transport inspections each year in addition to an annual licensing inspection.

All private hire vehicles must have licence discs in the top corner of the front and rear screens unless the owner of the vehicle is able to demonstrate a good business reason why the sticker is not appropriate.

Within the private hire industry, there have been some safety related issues with unregulated drivers reportedly touting for jobs, particularly in London. Transport for London and the police have addressed touting and its associated issues through stepped-up enforcement activity, education of the public and an improvement of the licensing regime for legitimate travel options.

In 2009/10, Transport for London undertook customer satisfaction research of taxis and private hire vehicle passengers. Both taxis and private hire vehicles recorded an 85 satisfaction score (out of 100).

The Addison Lee case study demonstrates how the minicab model has fostered innovation and differentiated service offerings within a competitive market.

14.4.5. Enforcing compliance with regulations

Many hire car operators are frustrated with what they perceive to be the inability of the VTD to enforce compliance with licence conditions and regulations, across all licence types. These operators believe that the complexity and costs of the regulatory regime for hire cars – along with the regulator's ineffectiveness – are contributing to an environment where some operators are not complying with the conditions of their licences, leading to allegations of fraud, touting and safety concerns for passengers.

It is clear that the VTD faces difficulties in enforcing four different hire car licence types across two operating zones, with varying conditions and requirements on operators and drivers. In addition, identification of SV and RH vehicles is very difficult as their licence plates do not indicate they are hire cars and they are only required to apply small stickers to their windscreens. However, there does appear to be relatively low levels of enforcement in relation to hire cars, as shown below.

Table 14.8 Enforcement activity in 2010, hire cars and taxis

Enforcement activity	Taxis (approx. 5,000 vehicles)	Hire cars (approx. 2,700 vehicles)
Inspections	52,000	3,100
Warning Notices	970	40
Infringement Notices	3,390	170

Source: VTD (Numbers are approximate due to gaps in the data provided)

Inquiry finding

→ Current hire car conditions and regulations seem difficult for the regulator to administer effectively, with a wide range of conditions to enforce, difficulties in detecting hire car vehicles and a poor understanding by consumers of hire car service conditions.

Touting

As noted earlier, the illegal practice of touting is a particular and major concern for both hire car and taxi operators, especially at Melbourne Airport. Operators give many reasons for touting. Most common is that hire car drivers complete jobs at the airport and, rather than 'running dead' back into the CBD, will try their luck by touting for a return journey. Some operators believe that touting is being undertaken by less successful hire car firms that, rather than leave the industry altogether, operators choose to generate income through touting.⁷²

Industry concerns about touting focus on the breach of licence conditions and poor enforcement creating an unfair 'playing field'. This is certainly the view of taxi drivers who complain that hire car drivers are touting successfully for work in the Melbourne Airport terminals while they wait up to three hours in the airport holding yard. Hire car operators working legally also complain:

A hire car driver waits an average of one and half hours for work at the airport. A hire car driver spruiking for work may take just a few minutes to find a passenger.⁷³

Other concerns are for the customer, who unwittingly may end up in a non-accredited vehicle where their safety may be jeopardised. One hire car operator points out:

The concern about touts is not simply about the loss or revenue to the owners that are operating within the regulations; it is about the reputation of the industry in providing a high quality, safe and reliable service. Touts are none of these things.⁷⁴

Many taxi and hire car operators and drivers feel that the VTD gives little attention to touting. This view appears to be reinforced by the statistics on enforcement: in the 10 years from 2001 to 2011, only 97 infringement notices were issued by the VTD to hire cars for touting.⁷⁵ Only nine official warnings have been issued for 'touting or attempting to induce passenger to hire' since 2006.⁷⁶

Operators also feel very strongly that the current penalty for touting (\$1,466) is insufficient to deter this behaviour. Participants in the inquiry's Hire Car Operators Workshop suggested extremely harsh penalties ranging from \$50,000 fines to impounding vehicles, crushing cars and removing licences or driver accreditation.

72 Views of operators discussed during Taxi Industry Inquiry (2012) - Hire Car Services Workshop, Royal Australasian College of Surgeons, unpublished

73 Anonymous submission to the Taxi Industry Inquiry, SS187, p.1

74 Anonymous submission to the Taxi Industry Inquiry, SS111, p.3

75 Information provided to the Taxi Industry Inquiry by VTD – Infringement Notices

76 Information provided to the Taxi Industry Inquiry by VTD – Warning Notices

In relation to Melbourne Airport, both airport management and the VTD administer regulations against toutting. Both told the inquiry that detection can be difficult, despite daily enforcement activities. Jurisdictional issues also impede enforcement, with the Qantas terminal (where the highest incidence of toutting is observed) outside the jurisdiction of authorised airport personnel. Airport staff report intimidating and aggressive behaviour by some hire car operators. The lack of an obvious enforcement presence is also viewed by airport staff as a major obstacle to tackling toutting, with the VTD and the Australian Federal Police seen as failing to dedicate sufficient resources to the issue. Generally, taxi and hire car operators feel the VTD is not sufficiently rigorous in monitoring and tackling toutting, summed up in these comments in submissions from hire car operators:

“One of the most frustrating issues within the hire car industry is the serious implications of toutting ... If the regulatory body is not able to enforce its own regulations, then it makes it very difficult to see how any regulations can improve the industry.”⁷⁷

“Toutting of customers at Melbourne Airport by rogue operators is frustrating for legitimate operators and continues to reflect negatively on the industry and on Melbourne in general. It seems strange that repeat offenders cannot be stopped.”⁷⁸

Toutting at the airport was a focus of the inquiry's Hire Car Services Workshop held in January 2012. The inquiry invited representatives from Melbourne Airport to meet with operators and discuss ways to address toutting. Operators were unanimous in their opposition to toutting and believed greater penalties and closer monitoring are the best ways to ensure compliance with the current regulations.

Operators felt that customers should have better access to hire car services under the current licence conditions where pre-bookings are made. As one operator remarked:

“Customers need to be able to walk out and get straight into a car – not have to walk into a carpark.”⁷⁹

The inquiry used the forum as an opportunity to discuss the option for a booking desk or kiosk at the airport where customers can organise for a hire car service to be provided. Operators were in favour of such a service, provided a marshalling area for hire cars is also provided. Operators believed a kiosk would begin to address toutting while noting that access will be required at each of the terminal areas.

What happens in other places?

Manchester – Arrow Cars

The Arrow Private Hire Company provides immediate booking and pre-payment facilities at Manchester Airport's three terminals. Booking desks allow customers to book once their flight arrives at the airport, with cars immediately available. Customers can also arrange their return to the airport through the booking desk. Arrow Cars have a range of four-seater saloons and estates and seven-seater minibuses. Wheelchair accessible vehicles make up part of their fleet.

Arrow Cars are the official provider of hire car services at Manchester Airport. The company also services the Leeds Bradford International Airport and East Midlands Airport through booking offices located directly outside the terminal building.

Inquiry finding

- ➔ Problems associated with toutting are due largely to a regulatory environment that is overly complex and difficult to enforce.
- ➔ In relation to Melbourne Airport, difficulties in corralling legitimate operators, monitoring hire car vehicles and inadequate penalties make the job of enforcement very difficult in a high traffic environment.
- ➔ The high incidence of toutting at the airport points to the fact that there is a clear demand for commercial passenger services that are not taxis or buses. Accordingly, enforcement may not be the only way to deal with the issue of toutting at Melbourne Airport and there may be other options that deliver customer benefits.

⁷⁷ Anonymous submission to the Taxi Industry Inquiry, SS111, p.6

⁷⁸ Anonymous submission to the Taxi Industry Inquiry, SS81, p.4

⁷⁹ Views of operator during Taxi Industry Inquiry (2012) - Hire Car Services Workshop, Royal Australasian College of Surgeons

14.4.6. The role of the regulator

In addition to concerns about enforcement, many hire car operators are also unhappy with the relationship between the VTD and the hire car sector.⁸⁰ These operators feel that the VTD is unappreciative of and unresponsive to their concerns, is focused on metropolitan taxi issues ahead of hire cars, does not consult adequately with the sector and communicates and engages poorly with operators and drivers, particularly around changes to regulations. These views range from dissatisfaction to outright animosity:

The VTD continues to demonstrate a heavy bias towards the taxi industry and offers little to no commitment and operational guidance to hire car operators. Past attempts at stakeholder engagement by them have been superficial, achieving little demonstrable outcomes or follow ups.⁸¹

The general feeling of Wedding Car Association members towards the Victorian Taxi Directorate and its staff is one of disdain. The VTD is the stereotype of a government bureaucracy. There appears to be a complete lack of understanding by VTD staff of how difficult it is to operate a small business and to make a living from it.⁸²

Of particular concern to many operators is the absence of a peak hire car industry body with which the regulator and others can consult about policy and regulatory matters. The lack of industry representation was a major talking point at the inquiry's Hire Car Services Workshop. Operators discussed previous attempts to set up a peak body and the problems encountered due to a lack of financing and the unwillingness of some operators to participate. However, all participants agreed it is essential for the industry to speak with one authoritative voice – a view endorsed by Melbourne Airport and the VTD. As one operator observed in their submission to the inquiry:

In developing a response to this inquiry it has become extremely obvious of the need to have a more formalised way of communicating with the government. It has been challenging to coordinate a response representing a consensus view. There is a high level of scepticism amongst the hire car owner drivers as it has become [an] 'every man for himself' model, which is not conducive to developing better industry wide practices.⁸³

Inquiry finding

- ➔ The concerns of the hire car sector have not received sufficient attention from the regulator. The new regulator needs to improve its processes for consulting with and collecting information from the hire car sector.
- ➔ The creation of an industry association or representative group may assist the regulator in carry out reforms in the hire car sector, as well as providing an avenue for communicating with the industry.

⁸⁰ These issues – and the industry engagement practices of the VTD and the new regulator – are also canvassed in chapters 8 and 22

⁸¹ Barton Chauffers, Op. Cit., p.11

⁸² Wedding Car Association of Victoria, Op.Cit., p. 10

⁸³ Anonymous submission to the Taxi Industry Inquiry, SS111, pp.4-5

Chapter 15.

15. Accessibility of taxis

Key messages

- People with a disability experience poor and unreliable taxi services more frequently and with more serious consequences than other taxi users.
- It is unlikely that the market alone will provide for the transport needs of people with mobility disadvantage. Targeted government intervention is needed to improve the accessibility of taxi services.
- The accumulation of different regulations, grants, incentive payments and subsidies to support the provision of wheelchair taxis and subsidised taxi travel for consumers with a disability has become multi-layered, confusing, restrictive and in some cases, ineffective.
- While taxi services for people with a disability have improved in recent years, significant concerns about service remain. This has led to mobility disadvantaged consumers losing confidence in the taxi system and frequent users avoiding network booking services, giving preference to private arrangements with trusted drivers.
- The inquiry's industry-wide recommendations for reform will benefit these taxi users. However, additional reforms are needed to ensure a high quality, reliable taxi service is provided to this important sub-market.

For many Victorians, taxis are more than simply one of several available travel options; rather, they provide an essential social service, allowing people to access employment, education, health services, retail services and social and recreational activities.

In particular, taxi services are vitally important to mobility disadvantaged users: people who use taxis because they cannot drive or easily access other forms of public transport.

This chapter explores concerns about taxi accessibility raised with the inquiry by mobility disadvantaged taxi users, their families and carers, advocacy groups and service providers. Key features of the market and regulatory environment for wheelchair accessible taxis (WATs) are examined, alongside government incentives and programs to improve WAT services and access to taxi services for people with a disability. Finally, the chapter assesses the performance in critical areas of taxi accessibility and proposes reforms to improve services.

15.1. Introduction

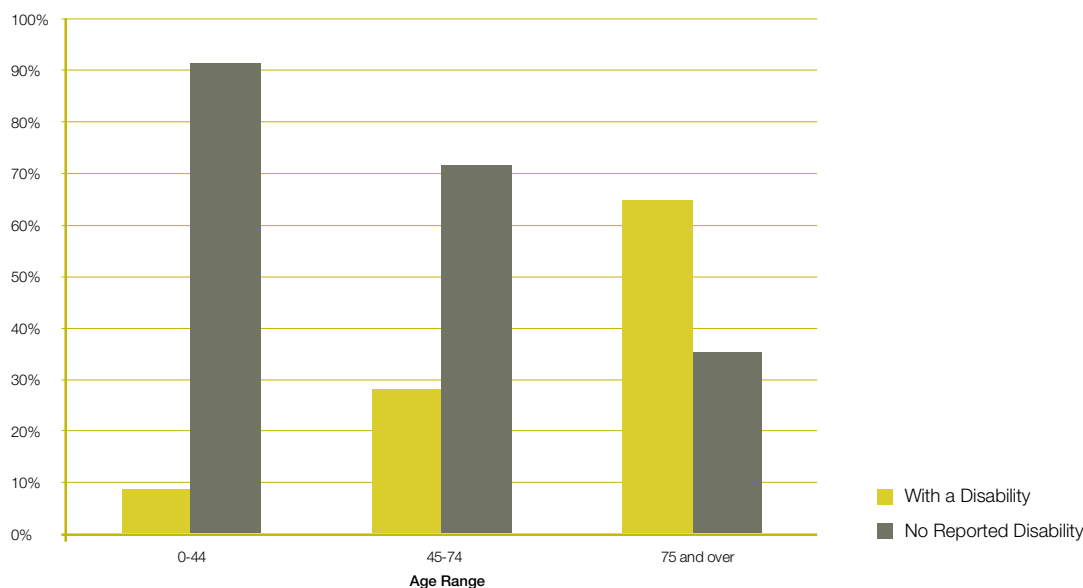
Taxis provide a vital transport service, as a complement or alternative to other forms of transport, for:

- People who use wheelchairs
- People with reduced mobility, such as frail elderly people, people who are vision- or hearing-impaired and people with an intellectual disability
- People with temporary physical impairments due to sickness or injury
- People living in areas with limited public transport options who do not own or cannot drive a car (such as older people living in outer metropolitan areas, residents of small country towns and isolated communities, and people with few transport options due to economic disadvantage)
- People requiring fast point-to-point services in emergencies when other options fail, are not available or will be too slow.

Top five issues with taxi accessibility in Victoria

1. **Long or unpredictable wait times** experienced by people who rely on wheelchair accessible taxis and complaints that the taxi booking system is unreliable
2. **Poor driver knowledge and problems assisting or communicating** with mobility disadvantaged people
3. Taxi drivers **refusing to pick up** people who they suspect will only require a short trip
4. Taxi travel is **too expensive for some**, even with the Multi Purpose Taxi Program subsidy
5. Most **taxi vehicles are uncomfortable, inaccessible and inflexible.**

Figure 15.1 Australian disability percentages by age



Source: ABS 2009

The door-to-door flexibility at all hours of the day provided by taxi services is a critical attribute valued by taxi users with reduced mobility. The personal service and assistance that can be offered by drivers is also valued by these consumers.

Mobility disadvantaged users are among the most frequent users of taxis, reflected in around 10 per cent of all submissions received by the inquiry coming from taxi users with a disability and advocacy and service organisations representing people with a disability.

'Accessibility' encompasses a range of issues that affect the extent to which taxi services are available to as many people as possible. It includes physical access to taxi vehicles and systems, as well as service availability, affordability and discriminatory behaviour. It also includes performance of the current taxi subsidy scheme, the Multi Purpose Taxi Program (MPTP).

While there is acknowledgement that taxi services for people with a disability have improved in recent years, significant concerns remain. In a number of critical areas, mobility disadvantaged taxi users feel strongly that the standard of service they receive falls well short of the service available to others in the Victorian community.

The accessibility of taxis and other point-to-point transport and their role in supporting social inclusion is likely to become even more important in the future. The Victorian population is ageing, with the percentage of older Victorians (65 and over) expected to increase from the current 13 per cent to 22 per cent by 2036.¹

As the percentage of older people in the population rises, mobility issues and the incidence of disability will become more common (as illustrated in Figure 15.1), and many more Victorians will be reliant on accessible transport to participate in community life.

15.1.1. Consumer research

The inquiry's findings in this area have been informed by a large body of literature, including industry reviews, reports and surveys.

In the consumer survey conducted for the inquiry by Ipsos Social Research Institute, some survey participants with a disability or a disabled family member report that taxi drivers often refuse to pick up people in a wheelchair or are particularly rude or affronted by disability.²

Consumer detriment research commissioned for the inquiry shows that people with a disability are much more likely to experience emotional cost from stress, anxiety, worry and embarrassment if the taxi/hire car service fails to deliver.³ The qualitative findings of the study suggest that the greater the importance of taxis as a transport option, the greater the impact of any problems and detriment experienced will be. These findings are reflected in anecdotal evidence given to the inquiry by mobility disadvantaged taxi users who have shared stories of being stranded late at night in the city, unable to use a toilet or take vital medication, or having to sit up in their wheelchairs all night because the taxi failed to get them home in time for their carer to help them to bed.⁴

¹ Department of Planning and Community Development (DPCD) (2008), *Victoria in Future 2008, Population and Household Projections 2006–2036*, Victorian Government, Melbourne

² Ipsos Social Research Institute (2012), Op. Cit., p.84

³ Latitude Insights (2012), Op. Cit., p.43

⁴ See VCOSS (2011), *Voices of taxi users – Paper prepared for the Taxi Industry Inquiry*, Melbourne

While mobility disadvantaged taxi users generally report considerable dissatisfaction with the quality and reliability of services (see section 15.1.2), the Department of Transport's WAT Customer Satisfaction Survey has recorded relatively high levels of satisfaction.⁵ Three waves of customer research with MPTP users who had recently used a WAT revealed that, in 2010, 73 per cent of WAT users in metropolitan Melbourne were satisfied with the overall service. This compared to 65 per cent of conventional taxi users being satisfied with the service they experienced. However, the survey also revealed that these results may reflect WAT users' lower expectations in areas such as wait times. It likely also reflects WAT customers' high use of private bookings directly with a known driver, which guarantees a certain standard of service and bypasses the network booking system.⁶

15.1.2. Submissions and consultations

As noted previously, around 10 per cent of submissions to the inquiry came from people with a disability and organisations from the disability sector. These groups responded early and eagerly to the inquiry, providing 25 per cent of all submissions received in response to the inquiry's *Setting the Scene* paper. In July 2011, the inquiry co-hosted a forum with the Victorian Council for Social Services (VCOSS) to hear directly from taxi users experiencing accessibility problems with taxis. VCOSS prepared a report of the forum, *The Voices of Taxi Users*, which summarises the concerns of taxi users with a disability.

The following issues are those that feature most strongly in the inquiry's consultations.

Lost confidence in the system

Many of the service difficulties currently faced by people with mobility disadvantage have been endured for a long time. The inquiry has talked with long-term taxi users and their carers who have lost confidence in the taxi system and given up on taxis altogether. One submission to the inquiry states:

“... [my son] has been left stranded at Southern Cross Station and a maxi cab has never come when booked – so we don't use them!! So his mobility around Melbourne is severely restricted...”⁷

Another submission demonstrates how losing confidence in the service affects people's daily lives:

“My ‘down syndrome’ sister over the last couple of years has been taking taxis to get to her place of employment ... This proved problematic for many reasons, the major ones being:

1. Taxis frequently 1-2 hours late...
2. Since using taxis, she has had to apply for at least 6 taxi cards as they would not be returned to her following presentation at journeys end...

[She] now no longer uses taxis.”⁸

The inquiry also heard that ‘word of mouth’ experiences related by taxi users with a disability and their families has spread distrust of taxi services, with many people avoiding taxis on account of others’ experiences.⁹ It is clear that, irrespective of what reforms are put in place, it will take time for some people to trust taxi services again.

Services have improved

Despite lost confidence by many taxi users, a number of submissions from the disability sector report that taxi services for mobility disadvantaged people have improved significantly in recent years. Since the introduction of the MPTP and WAT vehicles in the 1980s – which Scope acknowledges as “two of the best policy decisions made by the Victorian Government to enable people with physical and multiple disabilities to travel independently” – many users believe that the accessibility of the taxi system has undergone gradual improvement due to efforts by various governments and the Victorian Taxi Directorate (VTD).¹⁰

As noted in chapter 3, the inquiry has also received many reports of excellent customer service being provided to users with a disability and older people, especially from drivers in regional areas and those who belong to secondary networks in Melbourne. These reports show that some drivers and networks do indeed “go the extra mile” to serve their customers with a disability.¹¹

Failure of booking services

Mobility disadvantaged taxi users typically use booked taxi services more than taxis obtained through hail or rank. These users encounter the same problems as other taxi customers with the network booking systems;¹² however, long wait times and unreliable services often have a much more significant impact on people with a disability, their carers and service providers.

⁵ WAT Customer Satisfaction Survey, Market Solutions Pty Ltd, 2008, 2009, 2010

⁶ The survey did not differentiate between those who always use the same driver and those who book WATs through the network

⁷ Anonymous, Submission to the Taxi Industry Inquiry, SS177, p.1

⁸ Sue Mead, Submission to the Taxi Industry Inquiry, SS176, p.1

⁹ Noel and Helen Scott, Bairnsdale District Advocacy Group, Meeting with Taxi Industry Inquiry, 6 October 2011

¹⁰ Scope, Submission to the Taxi Industry Inquiry, SS67, p.11

¹¹ Warrnambool City Council, Submission to the Taxi Industry Inquiry, SS61, p.2

¹² See chapter 11

Case study

Short fare refusals

Two reports to the inquiry highlight the harm that short fare refusals can cause.

Blind children refused trip to station

Eight year old Ella wrote to the inquiry about being unable to get a taxi with her classmates for a short ride to Southern Cross Station. Her teacher, Leonie Walsh, explained that:

These students had just finished two full days of getting down from the country and then getting around on public transport. At the end of the camp they were physically exhausted and chose to order taxis to take them to Spencer Street rather than public transport again. This student was extremely upset [by the refusal to take them the short distance] and it undermined our training, as we were trying to train them with regards to all transport types – including taxis.

This may be ok for sighted people but to see a group of children with canes and refuse to take them in their cars for the short trip I feel was unreasonable.¹³

Relying on taxis for appointments

Peter and Elaine Cullinan wrote to the inquiry to relate the problem they experience with finding a taxi to take their son to medical appointments.

[Our son] is severely disabled and wheelchair bound. He needs to attend our local Yarra Ranges Health centre for Physio and O/T treatment. Unfortunately this is made virtually impossible due to the lack of availability and commitment of Wheelchair Maxi cab drivers and owners, and the state government. In particular I have found that the taxi drivers do not want to take our 'job' as it is only a \$14 trip I have had four 4 different drivers say it was not financially worthwhile and tell me they could not continue taking our job. I even had one who promised to take us on permanently call at 8.30PM the night before and cancel out all together. On the rare occasions the taxis turn up, my son and I have had to wait up to four hours to be picked up from the centre to come home.

My son desperately needs to be able to attend the health centre in order to have a chance at improving his situation. The state government are putting more maxi cabs taxis on the road however; this will not alter how my son is treated as the driver attitude situation will not change. There needs to be a financial incentive in cases such as my son.¹⁴

One dispirited comment in the submission from Scope sums up the experiences of many taxi users with a disability in booking taxi services:

The booking system [is] a wishing system.¹⁵

Even where a regular booking has been in place for many years, such as to take a person to work or some other regular activity, the booking is not guaranteed by the network service provider (NSP) or given preference ahead of casual bookings. As one respondent told the inquiry:

Although I have a regular booking, it invariably arrives late or not at all.¹⁶

13 Leonie Walsh/Ella, Submission to The Taxi Industry Inquiry, SS274, p.1

14 Peter & Elaine Cullinan, Submission to the Taxi Industry Inquiry, SS188, p.1-p.2

15 Scope, Submission to the Taxi Industry Inquiry, SS67A, p.3

16 Market Solutions (2010), *Quality of Taxi Services for Passengers with Disabilities – A report of research findings*, Survey conducted for the Victorian Equal Opportunity and Human Rights Commission, VEOHRC, Melbourne, p.24

Case study

Fraud by drivers

The inquiry heard concerns from disability advocates that people with complex support needs can easily be taken advantage of through a driver driving the 'long way around' between destinations, running the meter during loading time or running the taxi on the wrong tariff. Less vulnerable passengers have shared stories of drivers taking advantage of perceived passenger ignorance. One wheelchair user recounted his experience to the inquiry:

When we arrived at my destination, and only after I had been safely loosed on the road, I asked what the red '3' on the meter meant. He stared silently at it for a moment. Thinking maybe he hadn't heard or understood, I asked again. Then it came to him! "That's the tariff, the tariff for the wheelchair.

Oh, is that how you get the fifteen dollars? I asked.

Yes." he replied. "OK mate, see ya later!"¹⁷

People with a disability, their families and advocates also told the inquiry that WATs frequently fail to turn up altogether or that services are cancelled at the last minute, despite being booked many hours or even days ahead. As discussed in chapter 11, NSPs are not held accountable for the failure to honour these bookings.

This unreliability has a significant impact on people's lives, including feeling unsafe if left waiting for long periods of time in public places, being restricted by the inability to reach important destinations (such as work or medical appointments) on time and needing to limit commitments to take into account the time wasted by unreliable service. These problems have flow-on impacts on families, friends, service providers and employers.

VCOSS points out the major impact that unreliable services can have on people with a disability:

It is central to recognise that an unreliable taxi service can make people's lives smaller, as they face greater restrictions and uncertainty on the places they can be and the things they can do in their lives.¹⁸

Lack of personalised services

The inquiry heard that the metropolitan taxi booking systems do not allow for additional or customised services. Many people with a disability have particular needs, such as requiring assistance to enter or exit vehicles, help with carrying personal belongings or having to be at destinations at specific times. Others have particular communications needs. There are limited offerings within the booked taxi market for users to indicate these special needs and request a driver who is willing and able to provide the appropriate assistance. The NSP's systems are not designed for customer information to be retained, which means that people with a disability and their carers have to repeat the same information each time they book a taxi.

VCOSS notes that taxi users with a disability are keen to endorse greater choice in taxi services, if it means they can "control the features of services, such as specifying the level of assistance, type of vehicle and select appropriate drivers".¹⁹

Short trip refusals

As noted in chapters 3 and 10, short trip fare refusals are one of the most common complaints by taxi users. These refusals particularly disadvantage people with a disability who cannot make short trips by any other means of transport. Almost 12 per cent of taxi users surveyed in 2010 reported difficulties in hailing a taxi in the street because drivers refused their fare due to their disability.²⁰ The inquiry received disturbing reports of possible discrimination in providing taxi services, including drivers refusing to accept the fare when hailed by a person with a visible disability or refusing to take passengers who use assistance animals. Travellers Aid informs the inquiry that:

On many occasions taxi drivers have refused many of the people we assist access to service on the basis short fares. They actually ask where the individual is travelling before allowing them in the vehicle. Many people who we assist are elderly regional and interstate travellers with mobility challenges seeking assistance in getting to their CBD based accommodation and generally are travelling with luggage making trams a difficult option. Similarly travellers needing to get to essential medical appointments are also denied the service of a taxi to CBD based hospitals and medical services.²¹

¹⁷ Email from a wheelchair taxi user to the Taxi Industry Inquiry, 26 January 2012

¹⁸ VCOSS (2011), Op. Cit., p.13

¹⁹ Ibid., p.28

²⁰ Market Solutions (2010), Op. Cit., p.25

²¹ Travellers Aid, Submission to the Taxi Industry Inquiry, SS132, p.3

Unsatisfactory driver behaviour

Poor driver quality is as significant a concern for mobility disadvantaged taxi users as for other consumers. Reports to the inquiry about unsatisfactory driver behaviour include:

- Discourteous services – Passengers with a disability say it is not uncommon to deal with drivers who are rude and discourteous, including ignoring directions about preferred routes, taking circuitous routes when a passenger is unable to object and failing to provide assistance when it is clearly required.
- Poor communication skills – There is a perceived lack of driver communication skills in providing services to people with a disability (especially where customers have sensory disabilities or difficulties in communicating their wishes) and a concern that drivers have a poor understanding of the diversity of people with a disability.
- Passengers feeling unsafe or vulnerable – A number of people report feeling unsafe when using taxis. Some report having felt intimidated and frightened of rude and aggressive drivers. Others feel anxious about whether a driver will overcharge, especially by applying Tariff 3 when there is only one passenger in the taxi. Nearly half of the respondents to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) 2010 *Time To Respond* survey reported feeling unsafe when using taxis.²²

These problems appear more prevalent in Melbourne, with the VEOHRC noting that its 2010 'Quality of Taxi Services for Passengers with Disabilities' survey found that people with a disability in rural and regional areas are more likely to report that drivers are patient, polite and treat them with respect.²³

Unsuitable vehicles

Many wheelchair users told the inquiry that they are dissatisfied with the vehicles currently operating as WATs. In particular, the Toyota Hiace is widely criticised as being uncomfortable and difficult to access for users not in a wheelchair, especially elderly people. As one WAT user notes:

*The worst thing about the taxi is the vehicle itself! The Toyota Hiace is very uncomfortable, sitting above the back axel bumping along the country roads.*²⁴

Others complain that WAT vehicles have limited space for luggage and wheelchair positioning that makes it difficult to communicate with the driver, interact with other passengers and see the meter.

Users and service providers note that many non-wheelchair using passengers dislike riding in WATs and avoid using them where possible. This has an effect on driver income, on the willingness of operators to take up WAT licences and ultimately on the economic viability of WATs.

The inquiry has also received submissions, emails and phone calls from the public regarding the quality of conventional taxi vehicles. Many complain about vehicle safety, comfort and accessibility for people with reduced mobility. Most vehicles can only seat four people and there is very little room for additional mobility aids. People using walking sticks or walking frames complain that all taxi vehicles are difficult to enter and exit without assistance.

Affordability and the MPTP

The inquiry has received many submissions and comments expressing appreciation for the MPTP.²⁵ Generally, the MPTP is viewed as having improved accessibility for people with a disability considerably. Compared to other jurisdictions, both in Australia and overseas, the MPTP is seen as a generous scheme that is relatively easy to use. However, submissions to the inquiry highlight concerns about the program:

- It is restricted to people with a severe or permanent disability, and is not available to people who are temporarily disabled or frail older people.
- It does not take into account social and other factors that may intensify dependence on taxi services.
- The subsidy caps disadvantage people who have a need to make multiple trips or who need to make longer trips, such as people living in rural and remote areas.
- The complex application process is difficult for many people to manage.
- It is of little or no use to people living in rural communities with no taxi service and/or no WATs.
- The financial hardship test for the program may disadvantage people with a disability who are employed, but who lack any other means of getting to work. As Blind Citizens Australia point out:

*Put simply, the MPTP should be seen not only as a program that supports people with disabilities on low incomes, but also enables individuals to gain employment and contribute to their communities.*²⁶

The inquiry also heard concerns that the program 'locks in' people with a disability to using taxi services because it is not available for other forms of transport (such as community transport or hire cars). This limits customer choice for forms of transport that may be more affordable, higher quality or better matched with a person's particular requirements and circumstances.

²² VEOHRC (2010), *Time to Respond*: three years on, p.9

²³ VEOHRC (2010), *Op. Cit.*, p.8

²⁴ Noel and Helen Scott, Bairnsdale District Advocacy Group, *Op. Cit.*

²⁵ See section 15.3.4 for details on the MPTP

²⁶ Blind Citizens Australia, *Op. Cit.*, p.5

Inquiry findings

- Poor service is common and can have serious consequences for taxis users with reduced mobility.
- Taxi services for mobility disadvantaged users have improved over the years and there are examples of very positive experiences. However, significant concerns about service availability, reliability and affordability remain and good service is often only received via private arrangements with known drivers or secondary networks, rather than through reliance on the system-wide network service offering.

15.2. Market features

Taxi services for mobility disadvantaged Victorians make up a significant sub-market of the taxi industry. This market has some distinctive features and is subject to specific regulations that are designed – in part – to enhance taxi accessibility.

15.2.1. Demand for WAT and conventional taxi services

Around 18 per cent of the Victorian population has a disability.²⁷ As noted in section 15.1, this proportion is almost certain to rise as the population ages. People with a disability tend to travel less frequently than those who are not disabled, but – when they do travel – they are heavily reliant on taxis and other point-to-point services. For many Victorians with reduced mobility, taxis are critical to their wellbeing and their ability to lead full lives:

“We need taxis, I can’t use trains, trams or local buses without a staff person to help me, but I like to be independent, taxis are my legs.”²⁸

In 2010/11, MPTP users alone accounted for almost \$79 million in revenue for the Victorian taxi industry.²⁹ This represents approximately 10 per cent of the industry’s total annual revenue. Approximately one in 10 jobs in a conventional taxi is for a MPTP member who has a severe and permanent disability.

Contractual work for health and education services and government agencies, such as the Department of Veterans Affairs and the Transport Accident Commission (TAC), also constitutes a significant amount of revenue for many taxi operators. For example, in the 2010/11 financial year, the TAC spent \$4.3 million on taxi travel for its clients.³⁰

Mobility disadvantaged taxi uses are a particularly large customer base in country areas, with some operators telling the inquiry that elderly people and people with a disability provide up to 80 per cent of their work, especially on weekdays.³¹

Depending upon where users live and the extent of their impairment, there may or may not be complementary or alternative transport modes available. In Melbourne, as transport infrastructure and planning is improved, trams, trains and buses are becoming more accessible and more feasible options for people with reduced mobility issues, at least for part of their journeys. In outer suburban and country areas, these upgrades may take more time and a heavy reliance on taxis is likely to continue. There are also people who, due to the nature of their disability or other special circumstances, will never be able to access public transport as a substitute for taxi travel.

This segment of the taxi market is heavily reliant on pre-booked services, especially the WAT market.

15.2.2. Supply of WAT licences

As explained in chapter 4, of the 5,258 taxi licences operating across Victoria, 699 (around 13 per cent) are WAT licences. Of these licences, 549 are located in the metropolitan Melbourne and outer suburban zones (12 per cent of the Melbourne fleet), with the remaining 150 in the country or urban zones (19 per cent of the regional Victoria fleet).

The several different types of WAT licence are shown in Table 15.1.

27 ABS 4430.0 Disability, Ageing and Carers, Australia: Summary of Findings 2003

28 Scope, Op. Cit., p.1

29 Data supplied by the VTD

30 Correspondence with the TAC, 30 March 2012

31 Warrnambool taxi operator, Inquiry’s regional consultation, 15 September 2011

Table 15.1 WAT licence types in Victoria

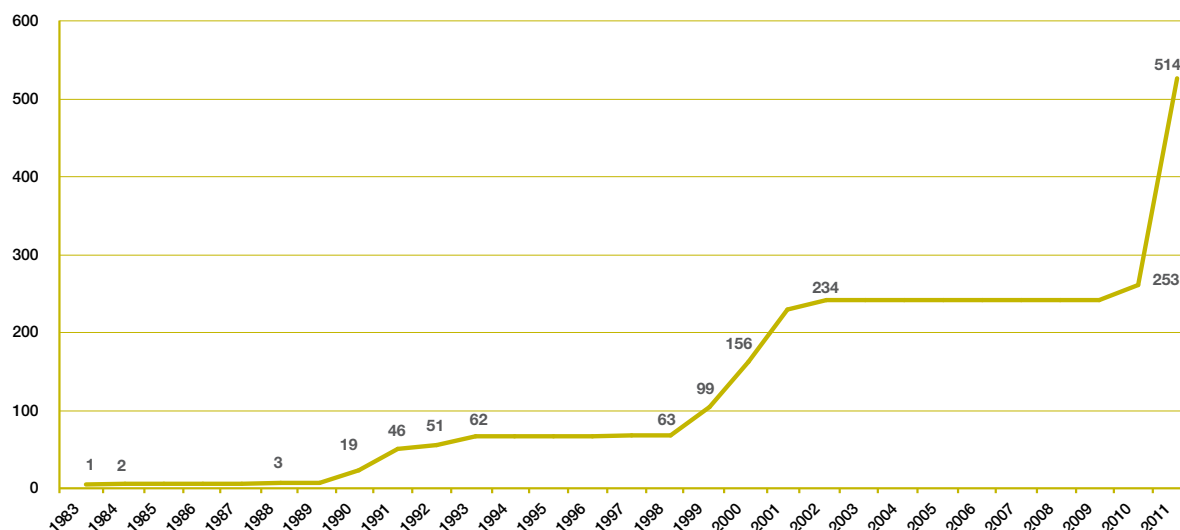
Type	No.	Licence conditions
Metropolitan Multi Purpose Taxi-Cabs (M50)	62	Perpetual licences Almost all are assignable Approximately 25 per cent are transferable Vehicle must accommodate at least two occupied wheelchairs Priority must be given to the carriage of wheelchair passengers at all times
Metropolitan Multi Purpose Taxi-Cabs – issued after 2001 (M51)	66	Perpetual licences All are transferable and none are assignable Vehicle must accommodate at least two occupied wheelchairs Priority must be given to the carriage of wheelchair passengers at all times
Metropolitan Fixed Term – Greater Melbourne Taxi Licence Release (MF55)	281	Ten year fixed term licences with annual payments to government. All are transferable and none are assignable Vehicle must accommodate at least one occupied wheelchair Vehicle must complete a minimum number of wheelchair trips each cycle
High Occupancy Vehicles licensed as metropolitan zone taxi-cabs (M80)	96	Perpetual licences All are transferable and assignable Vehicle must accommodate at least one occupied wheelchair
Outer Suburban Fixed Term – Greater Melbourne Taxi Licence Release (CF55)	5	Ten year fixed term licences with annual payments to government. All are transferable and none are assignable Vehicle must accommodate at least one occupied wheelchair Vehicle must complete a minimum number of wheelchair trips each cycle
Urban Taxi WAT prior 2003 (UT5)	23	Transferable and assignable
Urban Taxi WAT (UT5)	8	Transferable and assignable
Urban Taxi WAT Fixed Term (UT5F)	4	Non transferable and non assignable
Country Wheelchair Taxi prior 2003 (C50)	108	Transferable and assignable
Country Wheelchair Taxi (C50)	28	Non transferable and non assignable
Country Wheelchair Taxi Fixed Term (C50F)	9	Non transferable and non assignable
Total	690	

Note: There are actually 699 vehicles operating as WATs. A number of WATs are being operated on conventional metropolitan and peak service licences.

Inquiry findings

- The split of WAT licence types in Victoria, which differ by rules of operation, including zone restrictions and licence assignability and transferability, is confusing and serves no purpose.

Figure 15.2 Cumulative metropolitan WAT licences by year



Source: VTD

Metropolitan and outer suburban licences

The first metropolitan WAT licences were issued in 1983, at the same time as the introduction of the MPTP. The fleet grew slowly and by the late 1990s there were only about 70 metropolitan WAT licences. In 1999, 96 high occupancy vehicle (HOV) licences were issued for the primary purpose of providing late night taxi services. The majority of these vehicles were fitted for wheelchair carriage, although their licence conditions do not require them to prioritise WAT work. Additional non-assignable metropolitan WAT licences were released the following year, targeted to operators who were already leasing existing WAT licences and giving them the opportunity to obtain their own licences rather than to continue an assignment. In 2011, after nearly 10 years of restriction, the metropolitan WAT fleet more than doubled in size through the Greater Melbourne Taxi Licence Release (GMTLR) of 330 new 10-year, non-assignable WAT licences.

Urban and country licences

In regional Victoria, the release of WAT licences is governed by Section 143 of the *Transport (Compliance and Miscellaneous) Act 1983* on the basis of a 'public interest test' that takes account of assessed consumer demand and the interests of existing operators. If the VTD is satisfied that it is in the public interest to issue a licence to an applicant, the new WAT licence is subject to an annual lease fee and cannot be transferred or assigned. Problems arising from the application of the public interest text for new licences in country Victoria are discussed in chapters 10 and 16.

The proportion of WAT licences in regional taxi fleets varies from town to town (see Figure 15.3). Some, usually small towns, do not have any WATs, while others have a significant proportion.

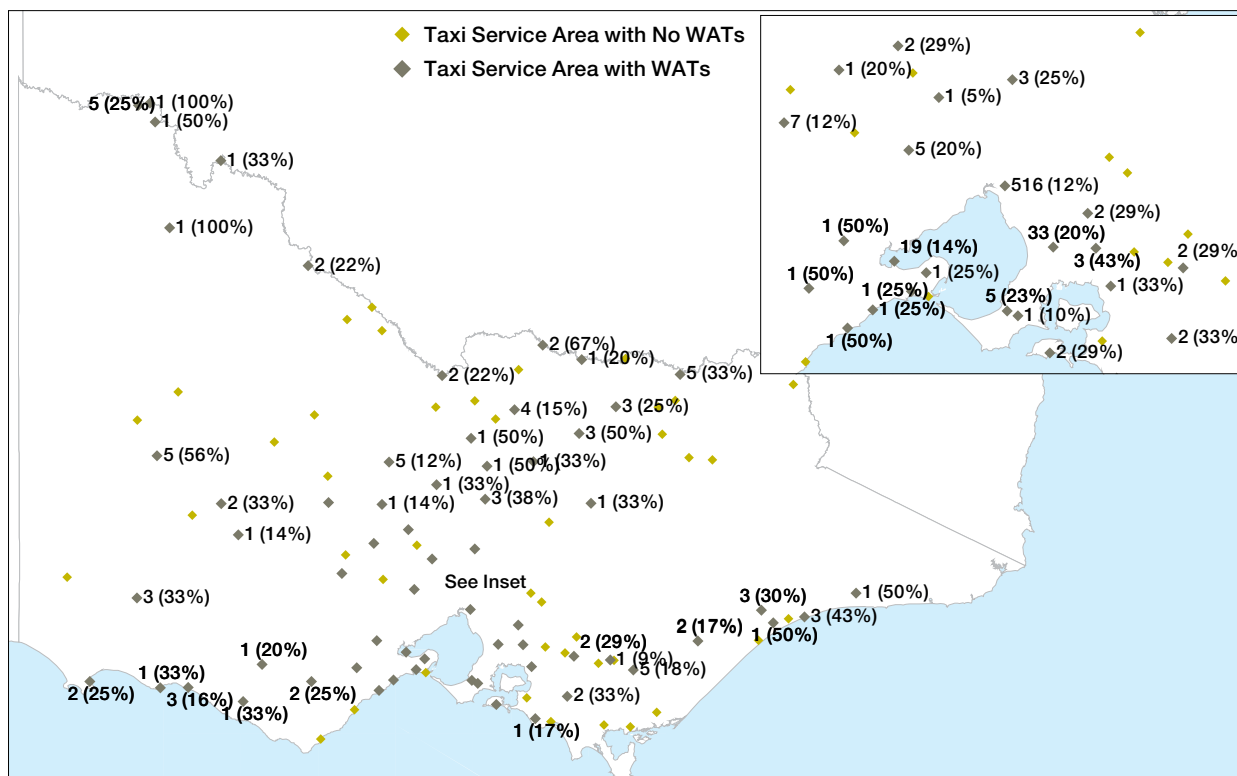
What is an appropriate supply of wheelchair accessible taxis?

The appropriate proportion of wheelchair accessible vehicles for a taxi fleet is a matter of debate. Around the world, actual proportions vary considerably from city to city, often according to the extent of other transport options available for mobility disadvantaged users, as well as other factors. In London, 100 per cent of the taxi fleet is wheelchair accessible;³² in New York, fewer than two per cent of vehicles are accessible (a separate city-funded para-transit service is also provided). At 13 per cent of the total fleet, Victoria has a relatively high proportion of WATs.

The decision to release 330 new WAT licences followed a recommendation in the Essential Services Commission's (ESC) 2007/2008 Taxi Fare Review that 15 per cent of the fleet should be wheelchair accessible. In arriving at this percentage, the ESC made brief reference to the views of the Finnish Taxi Association in a 2001 OECD report:

32 While most wheelchairs can be accommodated in the London black cab, some larger mobility aids cannot fit in the allocated space

Figure 15.3 Distribution of WAT licences



Source: VTD

The Finnish [Taxi] association considers that approximately 15% fully accessible vehicles would be appropriate.... On average...the Finnish figure of 15% is one that would probably be acceptable to many operators in the UK trade. In other countries and in other circumstances, different proportions may be judged appropriate.³³

It is important to note that the current fleet of wheelchair accessible vehicles are not suitable for all disabled taxi users. Some people with reduced mobility prefer a lower sedan-type vehicle that is easier to enter. It is also widely acknowledged that it is impossible to design a vehicle that is suitable for all people with a disability and that ensuring accessibility is more a matter of organising vehicle availability to give passengers with a disability a greater choice in their travel options.

Inquiry finding

→ The inquiry's view is that the proportion of WATs in the Victorian taxi fleet is adequate and that the better organisation of the WAT fleet is the best solution to improving taxi accessibility for people who use wheelchairs.

15.2.3. WAT booking system

WATs must be affiliated to an NSP for receipt and dispatch of bookings. As these vehicles make up only a small percentage of the overall fleet, management of these bookings is particularly crucial.

In the metropolitan area, WATs are affiliated to one of the two large primary NSPs: 13CABS and Silver Top Taxis. It is up to the networks to dispatch pre-bookings as they wish. For example, the inquiry has learned that one network dispatches pre-bookings 20 to 75 minutes before the requested pick-up time, depending on the location. This is considered by the network to be the most efficient dispatch method as it utilises the full fleet and ensures the closest available WAT is used. Clearly, its effectiveness also relies on the number of WAT vehicles in the fleet. This particular NSP also offers advanced pre-bookings up to 24 hours before the WAT is due, giving drivers the opportunity to accept a booking and receive first priority when the booking dispatch process begins.

In the outer suburban, urban and country zones, WATs are affiliated to their local NSPs. These networks tend to 'micro-manage' and coordinate regular and advanced bookings at the start of each day.

³³ OECD (2001), *Economic Aspects of Taxi Accessibility*, p.48, cited in ESC (2008b), Op. Cit., p.48

What happens in other places?

Other Australian states have different licensing regimes in place for WATs.

NSW

Short term WAT licences are available for \$1000 per annum in metropolitan areas and at no cost in regional and rural NSW.

Western Australia

In 2004, the Western Australia Government began to offer new licences that have a 10 year term, are non-transferable and non-assignable, at a fee of \$100 per week. The Government determines a number of licences to be leased each year based on a demand formula that primarily takes into account waiting times and 'no shows'. Western Australia also has a WAT stand-by service, where the Government pays a single WAT stand-by vehicle in Perth to fulfil phone bookings

that are not accepted by any other WAT within two minutes of the job being offered by the NSPs.

Tasmania

In the past, WAT licences were only released if there was evidence that WAT response times were longer than for standard taxis. Following a 2008 review of regulation, WAT licences are now available on demand to operators, provided that the applicant is an accredited taxi operator.

Queensland

In 2002, Queensland responded to the introduction of the national Disability Standards for Accessible Public Transport's requirement for equal response times by releasing more WATs to increase the proportion in the fleet. Today, 19.4 per cent of taxis in Queensland are wheelchair accessible, the highest proportion anywhere in Australia.

History of WAT booking services in Victoria

In the early 1980s, the WAT service operating in Victoria was very poor. There were very few taxis, operation was inefficient and delivery was fragmented across eight or nine depots.

Central Booking Service – 1st attempt

In the mid 1980s, a central booking service was established and coordinated by Regal Combined Taxis. All WAT licences were varied to require their operation through the centralised booking arrangement.

In 1990, the Government released additional WAT licences, but rejected a request from Regal Combined Taxis that all additional licences be issued to them. As a result, the central booking number was disbanded.

Central Booking Service – 2nd attempt

By the mid 1990s, consumer frustration was again very high, with users having to call several drivers to secure one booking. In 1997, the VTD awarded a contract to the Central Booking Service Pty Ltd (CBS). Again, WAT licence conditions were varied to require operation through the CBS, but private booking arrangements were allowed to continue and vehicles were permitted to operate through a second taxi depot for conventional work.

The CBS did not succeed for a number of reasons. Operators were allowed to affiliate to another network to supplement their incomes with non-WAT work. In practice, WATs typically remained 'rostered off' the CBS in order to obtain non-WAT bookings and the strict licence conditions could only be enforced if vehicles were rostered on the CBS. In addition, an audit of the communications system and process found that it was ineffective.

Post Central Booking System arrangements

Since 17 April 2001, Silver Top Taxis and 13CABS have dispatched all WAT bookings under a Memorandum of Understanding with the Victorian Government. Software modifications to the networks' dispatch systems enabled bookings not covered quickly by one depot to be broadcast to WATs attached to the other network. However, this software link was lost when one NSP upgraded to a newer dispatch system in July 2009. The two major metropolitan NSPs continue to pass on WAT bookings by phone, but there are concerns about how effective or reliable this is.

During the first years of this arrangement, the Victorian Government paid incentives to the networks for their WAT dispatching responsibilities. The payments were made regardless of the performance of their systems. In 2009, these payments were replaced by the Performance Based Booking System (described in section 15.3.4).

Secondary networks and 'private' bookings

Many mobility disadvantaged taxi users rely on private arrangements with drivers or secondary networks they know and trust. In the period from October 2010 to October 2011, a staggering 86 per cent of all WAT jobs in Melbourne were booked privately between the passenger and the driver. In other words, the NSPs were involved in only 14 per cent of all WAT trips. Metropolitan NSP data reveals that only 0.63³⁴ per cent of total pick ups from the booking network in 2010 were WAT trips.

This distinctive feature of the WAT market appears to have evolved due to concerns about driver quality and the reliability of the networks' booking services. As Scope notes in its submission to the inquiry:

A more personalised service from regular drivers has enabled many people to lead more inclusive lives in their community ... For many people with disabilities who have complex needs, taxis would not be an option for them if these relationships could not be developed.³⁵

15.2.4. Vehicles

Almost all vehicles in Victoria's taxi fleet are family sedans or commercial goods vans. The overwhelming majority of conventional taxis are Ford Falcons, while the overwhelming majority of WATs are Toyota Hiace Commuters, followed by Ford Falcons.

Vehicle substitution data shows that Ford Falcons are most commonly purchased secondhand through auctions of former executive vehicles at approximately \$18,000. Low upfront costs, ample supply of spare parts and relative durability makes these vehicles a cost effective choice for operators. At March 2012, Ford Falcons made up 82 per cent of the conventional taxi fleet.

The popularity of the Toyota Hiace for WATs goes beyond price and is also due to the various regulations, licence conditions and incentives that are in place covering WAT operation. The fact that very few purpose-built accessible vehicles have been available has also played a role. At March 2012, there were 610 Toyota Hiace Commuters in the Victorian taxi fleet and these vehicles made up 87 per cent of the WAT fleet.

Recent reports on the accessibility of taxi services

Expectation for government intervention in the sub-market for taxi services for people with reduced mobility is reflected in the relatively close attention paid to performance in this sub-market in recent years. Several specific reviews have been undertaken in Victoria and other Australian jurisdictions, while other major taxi and transport reviews have recognised the importance of this sub-market.

Victoria

- *Time To Respond: Realising Equality for People with a Disability Utilising Taxi Services*, VEOHRC (2007)
- *Time to Respond – 3 years on*, VEOHRC (2010)
- *Taxi Fare Review 2007/08*, ESC (2008)
- *Quality of Taxi Services for Passengers with Disabilities study* (2006 and 2010)

Other states and national reviews

- *Review of the Disability Standards for Accessible Public Transport*, Allen Consulting Group (2007)
- *Inquiry into the NSW taxi industry*, Select Committee on the NSW Taxi Industry (2010)
- *Review of the ACT taxi industry*, Department of Territory and Municipal Services (2010)

15.3. Regulatory framework

The specific regulatory requirements that apply to taxi services for people with reduced mobility have had a large impact on the structure of the market. Much, but not all, of this regulation targets the provision of WAT services.

15.3.1. The rationale for government intervention

It is unlikely that the market alone will provide for the transport needs of people with mobility disadvantage.³⁶ Taxi services are commercial businesses: operators are reluctant to incur extra costs without guaranteed commercial benefits and drivers will avoid passengers that are 'less-profitable'. This has implications when, for example, WATs have higher capital and operational costs than conventional taxis. When the social benefits of taxis are not taken into account by private players in the market, there is an underinvestment in taxi assets and an insufficient service.

³⁴ Metropolitan NSP data provide to the inquiry

³⁵ Scope, Op. Cit., p.15

³⁶ See also Allen Consulting Group (2007), *Review of the Disability Standards for Accessible Public Transport*, p.107

On the demand side, affordability is a major barrier to accessibility. This is not about economic efficiency – the taxi market may well be efficient – it is about social equity. In Australia, 45 per cent of people with a disability live in or near poverty,³⁷ making them among the least able to afford taxi travel.

There are also issues of market failure to consider. Consumers, especially those vulnerable to exploitation, are not in a position to assess the safety of the vehicle or driver that picks them up; nor can they afford to investigate these details before choosing which taxi to book or hail.

These issues and the acknowledged important role played by taxis have long been grounds for government intervention in the taxi market on both the supply and demand side. Regulations, licence conditions and grants exist to set safety standards and encourage the availability and reliability of taxi services, while the MPTP has been in place since 1983 to subsidise the taxi travel of severely and permanently disabled Victorians.

The inquiry's view is that the benefits taxis bring by allowing people to contribute to society and live more independently extend also to families, the wider community and the economy. These benefits far outweigh the cost of providing the service.

However, as in other areas of taxi regulation being examined in this report, the regulation applying to service provision for people with reduced mobility has become multi-layered, confusing and in some cases, ineffective. For example, as noted above, there are currently four types of WAT licences, each with different vehicle specifications, service requirements and eligibility for a variety of incentive payments and enforcement regimes. The inquiry considers that reform is needed to reduce this complexity and improve outcomes for taxi accessibility.

The inquiry has also considered the definition of an accessible taxi service. According to the VEOHRC:

[P]eople with a disability expect taxi services which are timely, safe, consistent and affordable – the same quality of service expected by the general community.³⁸

Major disability service provider, Scope, believes that Victoria should have a taxi system where:

...people with disabilities will travel in taxis that are available when needed, that turn up on time and that are driven by drivers who are confident and comfortable in their engagement with people who have a diverse range of disabilities.³⁹

The inquiry notes that the taxi market may not be able to meet these expectations without some form of government intervention.

15.3.2. Obligations under equality and human rights regulation

The rights of people with a disability to access transport, including taxis, are upheld in Commonwealth, State and international law.

Commonwealth law

Disability Discrimination Act 1992 (DDA) and the Disability Standards for Accessible Public Transport 2002 (DSAPT)

The DDA was introduced by the Commonwealth Government in 1992, and its provisions apply to all States and Territories. The Act specifies that 'it is unlawful for a person who...provides goods or services...to discriminate against another person on the ground of the other person's disability by refusing to provide the person with those goods or services'. Public transport, which includes taxis but not hire cars, is covered as a 'service' by the DDA.

The DSAPT were introduced in 2002 to prescribe how public transport is to be made accessible for the purposes of the DDA. They establish minimum accessibility requirements to be met by providers and operators of public transport conveyances, infrastructure and premises, in accordance with a compliance timetable.

In relation to taxis, the DSAPT prescribe vehicle standards for 'taxis' (conventional taxis) and 'accessible taxis' (WATs) such as allocated spaces for wheelchairs, ramps, doorways and headroom. A performance-based target is also included in the DSAPT that 'response times for accessible vehicles are to be the same as for other taxis' by 31 December 2007.⁴⁰ However, this standard still has not been met in Victoria. Responsibility for these standards is placed on radio networks (NSPs), cooperatives and/or taxi operators.

37 OECD (2010), *Sickness, Disability and Work: Breaking the Barriers – A Synthesis of Findings across OECD Countries*, Paris

38 Victorian Equal Opportunity and Human Rights Commission (VEOHRC), *Submission to the Taxi Industry Inquiry*, SS75, p.5

39 Scope, *Op. Cit.*, p.5

40 *Disability Standards for Accessible Public Transport (DSAPT)*, Schedule 1.3

Victorian law

Equal Opportunity Act 2010 (Vic) (EOA)

The illegality of discrimination against people with a disability is also established in Victoria's *Equal Opportunity Act 2010*. The EOA binds individuals and organisations in areas of public life, such as in the provision of goods and services (including transport). The Act was recently amended to impose a positive duty on organisations covered by the act to take reasonable and proportionate measures to eliminate discrimination as far as possible. The VEOHRC advise that this places an additional obligation on taxi service providers and the regulator to take steps to prevent discrimination occurring in the first place, rather than only responding after a complaint has been made.⁴¹

Charter of Human Rights and Responsibilities Act 2006 (The Charter)

Also at the state level, the *Charter of Human Rights and Responsibilities Act 2006* requires public authorities, including the taxi industry regulator, to act in ways that are compatible with human rights and to properly consider relevant human rights when make decisions, developing policy and delivering services.

International law

Finally, having ratified the *UN Convention on the Rights of Persons with Disabilities* in 2008, Australia is also bound by Article 9 of the Convention which states that:

State Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.

15.3.3. Regulation and enforcement

The VTD creates and enforces various requirements aimed at improving taxi services for people with a disability, which are laid out in legislation, licence conditions and/or accreditation schemes.

Prioritised bookings

As the effectiveness of the WAT booking system relies upon the operation of NSPs and the behaviour of drivers, several pieces of regulation target each layer of taxi booking services.

As noted earlier, WATs must be affiliated to an NSP for receipt and dispatch of bookings. The conditions of each WAT licence (other than HOV) stipulate that the operator must '...ensure that the vehicle/s specified in the licence/s is operated so as to give priority to the carriage of wheelchair passengers at all times'.

It is expected that operators relay this requirement to their drivers, so that if a wheelchair job is offered by the NSP, it is immediately accepted unless the driver is on their way to a private wheelchair booking. The conditions of the recently released 330 WAT licences clarify the driver's role in this requirement. The Business and Service Standards for taxi accreditation also specify that NSPs must prioritise the offering of 'all bookings or orders that are specified to be for the hiring of a wheelchair accessible taxi-cab to drivers of wheelchair accessible taxi-cabs'.

Driver monitoring and enforcement

As of 1 January 2010, prioritisation of wheelchair work also became a condition of driver accreditation. Through the 'Project WAIT' exercise, the VTD used data obtained from NSPs to monitor driver compliance with the requirement to prioritise wheelchair passengers. Drivers of WATs who are found not to be prioritising wheelchair bookings are investigated and given warnings, fined or can have their accreditation suspended. The project aims to change driver behaviour to ensure more reliable WAT booking services. The VTD told the inquiry:

The VTD has directed significant efforts at enforcing the priority of wheelchair bookings and reducing wheelchair passenger waiting times. Project WAIT, in operation since April 2010, has detected almost 1500 breaches of the wheelchair priority condition and taken disciplinary action in over 800 cases.⁴²

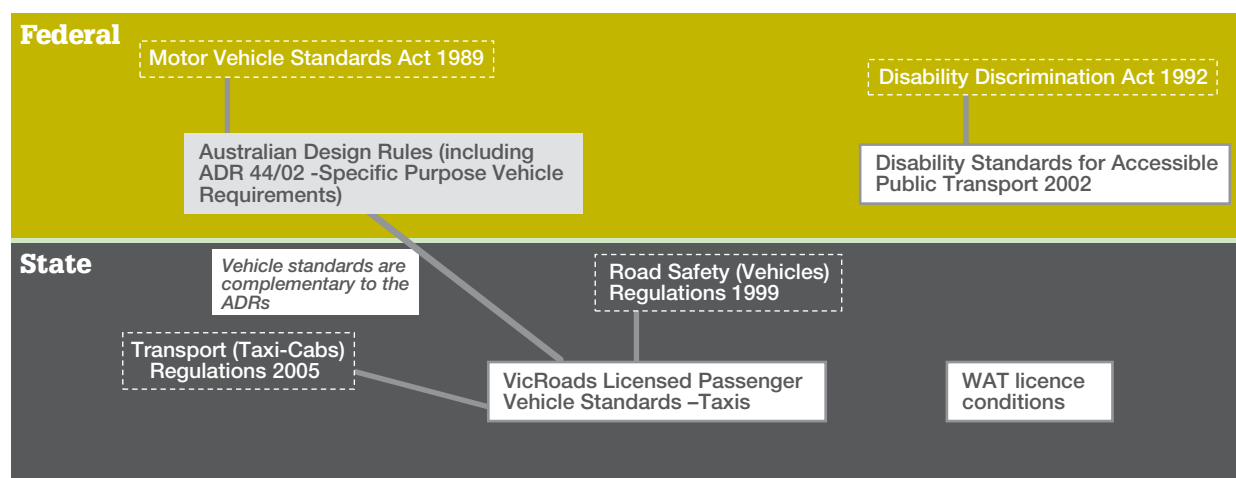
Driver training

As described in chapter 13, the industry regulator determines the process for driver entry into the industry. In relation to training for disability awareness, the Certificate II in Driving Operations (required of all metropolitan taxi drivers) contains a 10 hour module titled 'Provide Taxicab Customer Service'. This module is focused on developing a range of customer service skills and the curriculum specifically mentions 'customers with special needs' and 'conversing with people with a disability'. However, the time devoted to developing skills in these areas depends upon the individual training organisation's interpretation of the curriculum.

41 VEOHRC, Letter to the Taxi Industry Inquiry, 1 September 2011

42 VTD, Op. Cit., p37

Figure 15.4 Regulatory environment for vehicles



Source: TII

Drivers who wish to drive a WAT in any region within Victoria are required to complete the additional unit 'Provide Wheelchair Accessible Taxi Services to People with Disabilities'. This course covers the practical and professional conduct required to provide a service that is sensitive to the needs of people with a disability. The 40 hours of training includes communicating effectively with passengers; securing passengers and ancillary/mobility equipment; providing appropriate support to passengers during their journey; and manoeuvring the vehicle with due consideration of the passenger's disability.

The VTD can develop additional training components as required. In recent years, the VTD – through its Disabled Persons Taxi Advisory Committee (DPTAC) – has been considering the introduction of additional disability awareness training. Concerns about cost and disagreement about the delivery of this training have apparently delayed progress in this area.

Driver behaviour is also monitored by the VTD's Transport Safety and Compliance team who undertake spot checks on conduct such as the correct use of the wheelchair lift, restraints and passenger seatbelts.

Vehicle standards

Taxi vehicle standards exist to ensure safety, accessibility and comfort for passengers. Vehicle regulation is set out in Commonwealth and State legislation, as well as in licence conditions, and operators are responsible for compliance at every level of regulation.

State law

At the state level, all taxi vehicles must comply with the *VicRoads Licensed Passenger Vehicle Standards – Taxis* as set out in the *Transport (Taxi-Cabs) Regulations 2005*. These standards are developed by the VTD in consultation with VicRoads, which has responsibility

for applying them to Licensed Taxi Testers. Specific standards apply to WATs and include requirements for access steps, suitable handles or handgrips, the interior height where wheelchairs move and stand, and working space for drivers to secure or release each wheelchair and passenger.

The standard applying to the wheelchair restraint system is compliance with the version of AS 2942 Wheelchair Occupant Restraint Assemblies for Motor Vehicles that is in force at the time of fitting the system. The AS/ NZS 10542.1-2009 (Wheelchair tie down and occupant restraint systems – General Requirements) and AS/ NZS 10542.2-2009 (Wheelchair tie down and occupant restraint systems - Four-point strap type tie down systems) have superseded AS 2942 and are considered and enforced in conjunction with AS 2942 by the VTD.

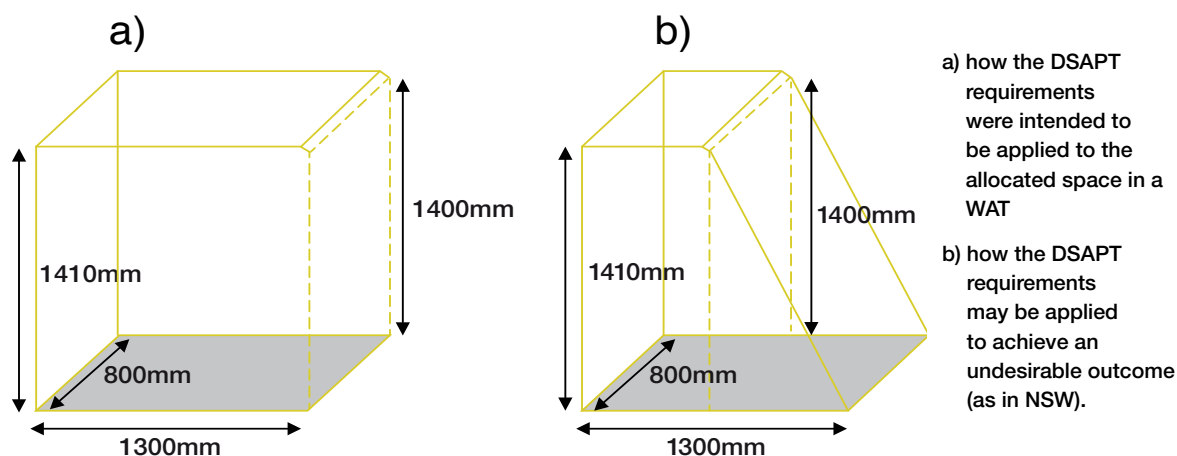
Regulation 12 of the *Transport (Taxi-Cabs) Regulations 2005* provides that the licensing authority may determine and publish in the Government Gazette specifications for all taxi-cabs, or a class of taxi-cabs. The most current version was published in the Government Gazette by the VTD on 24 May 2007.

Applicable standards in Commonwealth legislation are also enforced by the VTD.

Commonwealth law

At the national level, all vehicles, including taxis, are governed by Australian Design Rules (ADRs) relating to motor vehicles. In addition, the DSAPT set out particular requirements for taxi vehicles (as noted in section 15.3.2).

Figure 15.5 Allocated space in accessible taxis



Source: Allen Consulting Group (2009)

DSAPT sets minimum standards for taxi infrastructure in a number of areas, including facilities (such as ramps and Tactile Ground Surface Indicators) at taxi ranks, the signage designating taxi areas and booking services.

Specific standards are also set for WATs, including:

- The minimum allocated space for a single wheelchair (800mm by 1300mm)
- Minimum head room in an allocated space (currently 1410mm, increasing to 1500mm from 1 January 2013)
- Vertical height of doorways (at least 1400mm, increasing to 1500mm from 1 January 2013).

This sizing for accessible taxis is based on the 80th percentile, meaning that this space should accommodate 80 per cent of all wheelchair users easily. The DSAPT require the Commonwealth Minister for Transport and Regional Services, in consultation with the Attorney-General, to review the efficiency and effectiveness of the standards within five years after they take effect and every five years after the initial review. The first review was undertaken between 2007 and 2009.⁴³ The Commonwealth Government responded to the review in June 2011.

Among other things, the review recommended that the standards be amended to require a three dimensional allocated space in accessible taxis⁴⁴ (shown as space (a) in Figure 15.5). This stemmed from problems in NSW, where operators were interpreting the standards in such a way that some WATs had an allocated space equal to space (b) in Figure 15.5, which was inaccessible to some wheelchair users.

In Victoria, the VTD has long referred to an internally produced template based on dimensions described in AS2942 (the standards governing wheelchair tie down and restraint systems⁴⁵) to ensure that all taxis are accessible in practical terms.

To remedy the situation in NSW, the NSW Government recently introduced an inflexible measurement protocol requiring that WATs have an allocated space equal to a three-dimensional prism with minimum dimensions of 1300 mm (length) x 800 mm (width) x 1500 mm (height). No intrusions into the allocated space, other than for adjustable restraint devices, are permissible.

In anticipation of the Commonwealth implementing the recommendation from the DSAPT review to apply the 'prism' nationwide, the VTD now requires this allocated space in all new WAT conversions.

Licence conditions

Apart from the 330 recently released metropolitan WAT licences, all metropolitan, outer suburban and the Ballarat and Bendigo WAT licences require that the vehicle be able to accommodate at least two occupied wheelchairs. Country WAT licences do not specify this requirement. This requirement heavily influences the types of taxi vehicles used as WATs.

⁴³ Allen Consulting Group (2009), Op. Cit.

⁴⁴ Ibid., p.294

⁴⁵ These standards have been superseded by AS/NZS 10542.1:2009

Table 15.2 Changes to MPTP since 1983

Year	Event
February 1983	Commencement of MPTP Subsidy: 50% of metered taxi fare Trip Cap: \$25 per trip
July 2004	Annual cap introduced: \$550 p.a. Means/income test introduced to address increasing cost pressures, safeguard the program's financial sustainability and target funding on a more needs basis.
July 2005	CPI Adjustment \$565 p.a.
September 2005	Caps reviewed Subsidy: 50% of metered taxi fare Trip Cap: \$30 per trip Annual Cap: \$1,090 p.a.
13 December 2008	Subsidy: 50% of metered taxi fare Trip Cap: \$60 per trip Annual Cap: \$2,180 p.a.

15.3.4. Government funding and incentives

A range of incentives are provided by the Victorian Government to improve the accessibility, affordability and quality of taxi services for people with reduced mobility.

Multi Purpose Taxi Program

The MPTP was established in 1983 to subsidise taxi travel for people who have a severe and permanent disability that prohibits them from independently using public transport. The scheme makes taxi travel more affordable for members by subsidising 50 per cent of the taxi fare. This is subject to a maximum subsidy of \$60 per trip and a maximum overall subsidy per member of \$2,180 per year. Members with particular disabilities are exempt from the subsidy cap and where an individual can demonstrate greater need because of employment, medical or education purposes, the cap may be set higher.

Eligibility for MPTP is based on a doctor's assessment and an income means test. Means testing and the annual cap for most applicants were introduced in 2004 to address increasing cost pressures and to safeguard the program's financial sustainability. The MPTP card can be used for any type of taxi journey except when the journey is covered by insurance or is also already being subsidised by another government department. While the current application process involves a 16-page form provided by the VTD, a new online smart form has recently been launched for doctors and a new streamlined 8-page application is currently being finalised by the VTD.

Since the introduction of the MPTP, a number of changes have been made to the scheme as summarised in Table 15.2.

There are approximately 158,000 MPTP members, 80 per cent of whom are over 60 years of age and 67 per cent of whom are over 75 years of age. Fourteen per cent of members are wheelchair users.

The MPTP is one of a number of transport-related entitlements made available to people with a disability by local, State and Commonwealth governments. Other entitlements include free public transport travel passes for people with certain disabilities, various disabled persons parking schemes, free registration for wheelchair accessible converted vehicles, subsidies for modifying vehicles and assistance in accessing activities such as employment and training.

Current MPTP eligibility criteria

Part 1 – Medical

- Severe and permanent disability
- Impaired functional mobility
- More than two years of age
- Disability will not improve with further medical treatment
- Cannot independently access public transport (vision impaired applicants excepted)

Part 2 – Means Test

As at September 2011, the VTD financial criteria for MPTP eligibility is \$33,012 for singles, \$52,214 for couples living together and \$65,322 for couples separated due to illness. A further \$5,663 is added for each additional dependent child.⁴⁶

Categories that are exempt from the means test are:

- Wheelchair users
- Department of Veteran Affairs' (DVA) Card Holder
- Means Tested Pension Card Holder
- Financial Hardship
- Blind Pension recipients are subject to separate means test

A member is exempt from the subsidy cap if they have:

- A disability listed on MPTP exemptions; or
- A DVA Pensioner Concession Card that is endorsed Extreme Disablement Adjustment (EDA) or Totally and Permanently Incapacitated (TPI).

Incentives for WAT licences

WATs typically have higher operating costs than conventional taxis due to the capital cost and maintenance of the vehicle and the additional time required to load and assist passengers in wheelchairs. WAT vehicles cost between \$60,000 and \$75,000 for the base vehicle and required conversion, compared to around \$18,000 for the most popular standard taxi cab (secondhand Ford Falcon). Fuel costs, the costs of tyres, repairs, spare parts and general maintenance may also be higher, but the inquiry has not assessed the extent of these differences.

To make the operation of WATs more cost effective and encourage the uptake of WAT licences, the Victorian Government provides a range of financial subsidies and incentives:

- The standard life of a WAT is extended to 10.5 years, as compared to 6.5 years for a metropolitan standard taxi and 7.5 years for a standard taxi based in a regional or rural location.
- A 50 per cent levy on the standard fare, known as Tariff 3, may be applied when there are five or more passengers in the vehicle or when a hirer (not using a wheelchair) specifically requests a larger than standard taxi.
- Grants of up to \$44,000 are available for country operators to replace existing WATs, upgrade a retiring conventional taxi with a WAT or introduce a WAT where none currently exists. The \$3.3 million scheme was introduced in 2006 following a recommendation by the Country Taxi Services Review to fund the difference in capital purchase cost between conventional taxis and WATs. It is intended to make WATs more available and affordable for people living in small country towns. Applications are assessed on the basis of community need and the operator's financial capacity.

Incentives for drivers

The Victorian Government also provides financial incentives to improve driver quality in relation to passengers with a disability:

- The additional training required for WAT drivers is fully subsidised by the Government. A \$385 course fee is paid to the Registered Training Organisation for each driver and an \$80 payment is made to drivers in recognition of the additional time spent attending the course. Travel costs for assessors of all non-metropolitan WAT drivers (who undertake the course online) are also paid for by the Government.
- A 'lifting fee', \$15.20 for WATs and \$7.60 for conventional taxis outside Melbourne metropolitan, is paid by the Government for each job requiring the carriage of a wheelchair or scooter. At least two thirds of the payment must go to the driver, while the remaining third can be kept by the operator. This fee acts as another incentive to encourage the operation of WATs and acknowledges the extra time and effort required before and after a hiring to load and unload the wheelchair and secure it in the vehicle. In the 2010/2011 financial year, more than \$10 million in lifting fees was paid to drivers and operators.

⁴⁶ These figures are currently under review by the VTD

What's happening in other places?

Sydney – Zero200 Booking Service

The Zero200 booking service was established in 1984 when the few existing WATs were spread thinly across the Sydney networks. The aim in establishing a centralised booking service was to improve service levels by maximising the pool of available WATs for users. In addition, the centralised booking service also monitors driver behaviour, follows up complaints and imposes penalties.

WAT licence conditions stipulate that all WATs sign-on to the Zero200 booking service when on the road and that all Sydney networks must:

- Actively support Zero200
- Ensure that all network radio operators and drivers comply with Zero200 rules
- Ensure that all WATs in their fleet meet their share of M50 bookings
- Report on the number of privately arranged M50 bookings carried out by each WAT.

The Zero200 rules include giving preference to a person using a wheelchair, not refusing a WAT booking and drivers giving an estimated time of arrival for all bookings when the estimated pick-up time is greater than the network offer time. The Zero200 administration also offers incentives at their discretion to complete difficult hirings.

For many years, Sydney's largest NSP – Taxis Combined Services (owned by Cabcharge) – has been responsible for all operational aspects of the Zero200 service.

As shown in Figure 15.6 below, the reliability of the Sydney network appears to be significantly higher than Melbourne's in providing WAT services. Submissions to the inquiry and consultations with WAT users also suggest that the Sydney WAT service is more reliable than Melbourne's.⁴⁷

Figure 15.6 WAT performance against network standards, Sydney networks compared to Melbourne networks



Source: Melbourne metropolitan NSP data and Transport for NSW

⁴⁷ Meeting with Youth Disability Advocacy Service, 30 June 2011

Adelaide – Access Taxi centralised booking service

In Adelaide, all WAT operators are required to be affiliated with the Centralised Booking Service (CBS), which is managed by a single service provider. The bookings are ‘micromanaged’ and drivers ‘bid’ for pre-booked jobs each morning to minimise dead running.

WAT drivers must be in radio contact with the CBS at all times and must comply with all requests from the CBS operator. Operators are required to ensure that the vehicle meets any quotas or other measures imposed by the CBS. In particular, drivers must provide a dedicated service to bookings made through the CBS between the hours of 7:30am and 6:30pm.

Passengers are able to request a particular driver and the booking call centre calls customers if their taxi is running late or when their booked time is unavailable, and gives passengers the option to consider a revised time. Significant improvements in service reliability have been reported and no private hirings occur outside the booking system.

The South Australian Government subsidises the CBS to resource their micromanagement role and drivers receive incentive bonuses based on their performance. The Government also pays WAT networks a lump sum for each WAT it has on the road each year, to compensate for the higher level of intervention required for allocating bookings.

Canberra – Centralised booking service

In January 2011 the ACT Government agreed to implement the recommendation of the ACT Taxi Industry Review (2010) to introduce a centralised WAT booking service based on the South Australian arrangement (outlined above). The inquiry understands that the ACT government is currently evaluating proposals for the provision of this service

Incentives for WAT booking services

The Performance-Based Booking System (PBBS) commenced as a pilot in 2009. The system monitors wait times for ready-to-ride and pre-booked WAT services and rewards NSPs when jobs are fulfilled within certain time frames. Payments are dependent upon performance in three areas: taxi response times, phone response and complaints. Results determine the reward payout percentage, which can be up to \$5.45 for each successful WAT booking. Penalties are applied if poor performance continues over an extended period.

Currently, 28 NSPs participate in the ongoing PBBS: 13CABS, Silver Top Taxis and 26 non-metropolitan NSPs. The system aims to encourage NSPs to take greater accountability for the management of their WAT fleets. The system has also provided the VTD with valuable data relating to booked trips through NSPs. As noted above, the PBBS replaced other arrangements through which the Victorian Government paid incentives to the two metropolitan NSPs without any performance or data collection requirements.

15.4. Regulation, performance and reform

All of the provisions and incentives described above are aimed at ensuring a good quality, stable and affordable taxi service for people with special needs. The structure and heavy regulation of this sub-market influences the conduct of users, drivers, operators and NSPs – and, in turn, this has an effect on the performance of the industry.

The large number of submissions received by the inquiry from taxi users with reduced mobility, their families and advocates provided insight into the effectiveness – or otherwise – of the current regulatory framework. The inquiry has also used industry, regulator and survey data to assess where current regulations are not having the desired effect and where reform or further investigation is needed.

Many of the problems raised by these taxi users relate to the broad structure of the taxi and hire car market. Issues such as driver pay and conditions, competition and network accountability affect all taxi users, but they are felt much more acutely by those who rely heavily on taxis. These issues are canvassed in other parts of this report. The following sections focus on issues particular to mobility disadvantaged users.

15.4.1. Availability and reliability

The poor availability and reliability of WAT services is one of the key issues raised with the inquiry. Almost all WAT users who contacted or met with the inquiry team recounted experiences of unreliable taxi services. 'Reliability' was also identified as a top priority for taxi users at the Taxi Industry Inquiry/VCOSS forum.⁴⁸ VCOSS, VEOHRC, Scope, local councils and other organisations all report unacceptably long wait times for WATs, with VEOHRC noting:

*Our research indicates that lengthy or unpredictable wait times are the norm rather than the exception for people with a disability. This level of service would not be acceptable to the rest of the community as standard practice and makes it impossible for a person with a disability reliant on taxis to reliably arrive at a meeting or appointment on time.*⁴⁹

Several reasons are nominated by taxi users and others as leading to this poor availability and reliability.

Vehicle numbers

Many taxi users believe that the unreliability of WAT services is due to an insufficient number of vehicles, particularly in metropolitan Melbourne. In the 2010 survey conducted for VEOHRC, nearly half of all metropolitan WAT users believed there was not enough WATs operating in their area.⁵⁰ Several people told the inquiry that they would like to see the entire taxi fleet made wheelchair accessible.

As noted in section 15.2.2, the metropolitan WAT fleet more than doubled in 2011 through the GMTLR. However, despite this increase in numbers, average wait times (as revealed through the PBBS) have not improved to any noticeable extent. On average, pre-booked WATs are still delayed by over 20 minutes (see Figure 15.7).

Discussions with some of the operators and drivers of these new licences reveal that they receive very little WAT work through the networks. They believe that well-established WAT operators continue to do most of the available WAT work, especially those with regular clients. When the majority of WAT users have private arrangements with drivers, this leaves very little work for those without those established customer networks. This supports the inquiry's view that there are sufficient numbers of WATs in the taxi fleet: the problem is the way in which they are organised and allocated.

In regional Victoria, the WAT purchase subsidy scheme has encouraged the take-up of new WAT licences and enabled operators to replace old WAT vehicles and exchange sedan vehicles for WATs. This has increased the pool of WATs available in regional areas. The VTD has advised the inquiry that the initial funding pool of \$3.3 million will be exhausted in the coming months and is capable of subsidising only a few more vehicles.

Fare structure

The fare structure is identified as another cause of long wait times, as well as the cause of drivers refusing short fares. In particular, the inquiry heard comments that too many WATs wait at the Melbourne Airport rank in the hope of applying the Tariff 3 fare for larger groups of travellers with luggage, taking them out of the WAT pool for the rest of the city and contributing to long wait times and overall service unreliability.

In 2007/2008, the ESC supported the application of Tariff 3 as a way of improving the viability for WAT and HOV operators as it increased returns for these vehicles. As the ESC stated:

*In the Commission's view, high occupancy taxis should be able to charge the high occupancy tariff whenever they are carrying more passengers than the maximum limit for a conventional cab. This is because when a HOV is carrying more than four passengers, the passengers are obtaining a benefit from the operator's additional investment in a HOV vehicle. This change in the fare structure will improve the returns to HOV operators, and encourage investment in HOVs. As HOVs are accessible vehicles, it will also support the use of WATs, and therefore assist the industry to meet the Disability Standards.*⁵¹

The inquiry agrees with the ESC's assessment in principle. However, there are questions about the effect of the higher tariff on the availability of these vehicles for WAT passengers. The fact that large numbers of these vehicles appear to be queuing at the airport waiting for passengers travelling in groups or with large quantities of baggage means that these vehicles are not available elsewhere for wheelchair passengers. The ability to apply Tariff 3 also makes transporting Friday and Saturday night 'party groups' more appealing than wheelchair passengers.

As noted earlier, there are also concerns that some drivers fraudulently apply the tariff when passengers may be unaware of, or unable, to question the practice. The inquiry has heard that this practice appears to be common, both when carrying wheelchair passengers and when carrying unsuspecting passengers from the airport. One driver told the inquiry:

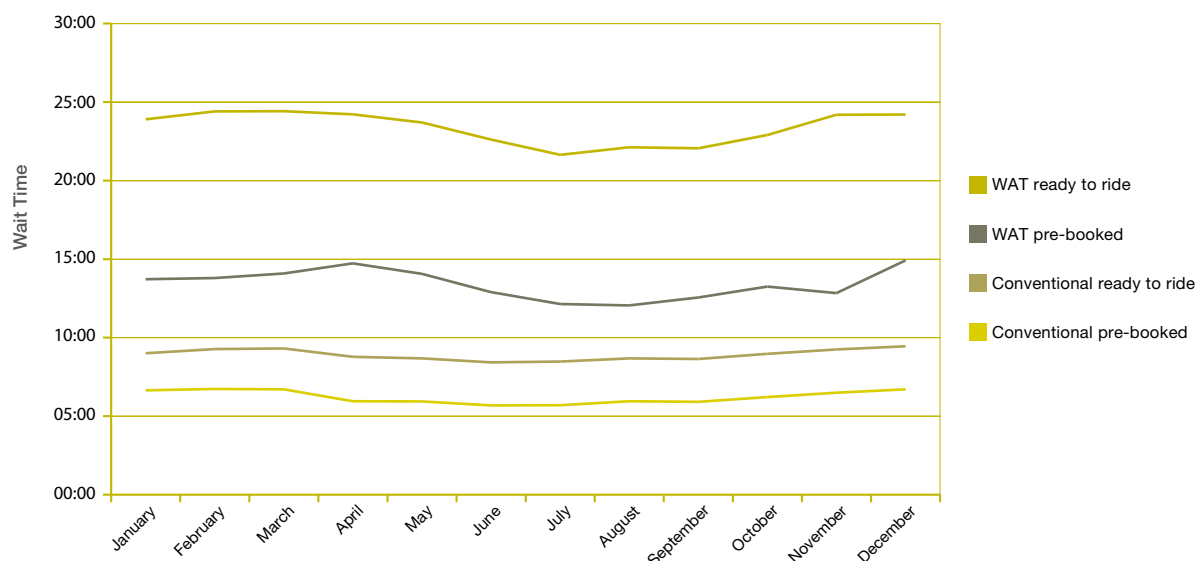
48 VCOSS (2011), Op. Cit., p.13

49 VEOHRC (2010), Op. Cit., p.7

50 Market Solutions Pty Ltd (2010), Op. Cit., p.26

51 ESC (2008b), Op. Cit., p.125

Figure 15.7 Wait times for ready-to-ride services in the metropolitan zone



Source: NSP data

Certain WAT operators insist that their drivers charge the higher tariff at all times.⁵²

Another implication of the introduction of Tariff 3 has been the favouring of particular styles of vehicle. The Toyota Hiace Commuter is an attractive vehicle choice for operators as it can accommodate a large number of seats. This discourages the use of other, more user friendly and better designed vehicles.

Booking systems

The performance of the network booking systems is seen as critical to wait times for WATs. This includes the capacity of booking and dispatch systems to cope with demand, the exchange of bookings between the networks and their ability to store personal information and use it effectively.

Although it has not been systematically evaluated, the introduction of the PBBS in metropolitan Melbourne appears to have led to very little improvement in wait times for WATs – despite costing almost \$1.4 million in the 2010/2011 financial year.

Data from the major metropolitan NSPs show that wait times are longer for 'ready-to-ride' bookings than those that are 'pre-booked' and that, on average, consumers wait approximately 15 minutes longer for a WAT than for a conventional taxi for a ready-to-ride trip (Figure 15.7).

Results that are available from the PBBS show that WAT users in metropolitan areas wait longer for ready-to-ride bookings than WAT users in the outer-suburban, urban and country zones (Figure 15.8).

Customer expectations of wait times are also an indicator of service reliability. In 2010, the WAT Customer Satisfaction Survey conducted for VEOHRC revealed that WAT users in metropolitan areas typically expect to wait, on average, 29 minutes for an immediate pick up (see Table 15.3). This is almost double the length of time they consider reasonable (14 minutes). In 2009, the average expectation was 31 minutes. Two out of five metropolitan WAT users reported wait times longer than 30 minutes for immediate requests and a significant number of these (16 per cent) reported typical wait times of longer than 60 minutes. One in three metropolitan respondents reported occasions in the previous six months when they had requested a WAT and it failed to turn up.⁵³ While these examples of extreme poor performance may be masked by the use of averages in the data, the inquiry acknowledges they indicate highly unsatisfactory levels of performance and greatly influence taxi users' confidence in the industry.

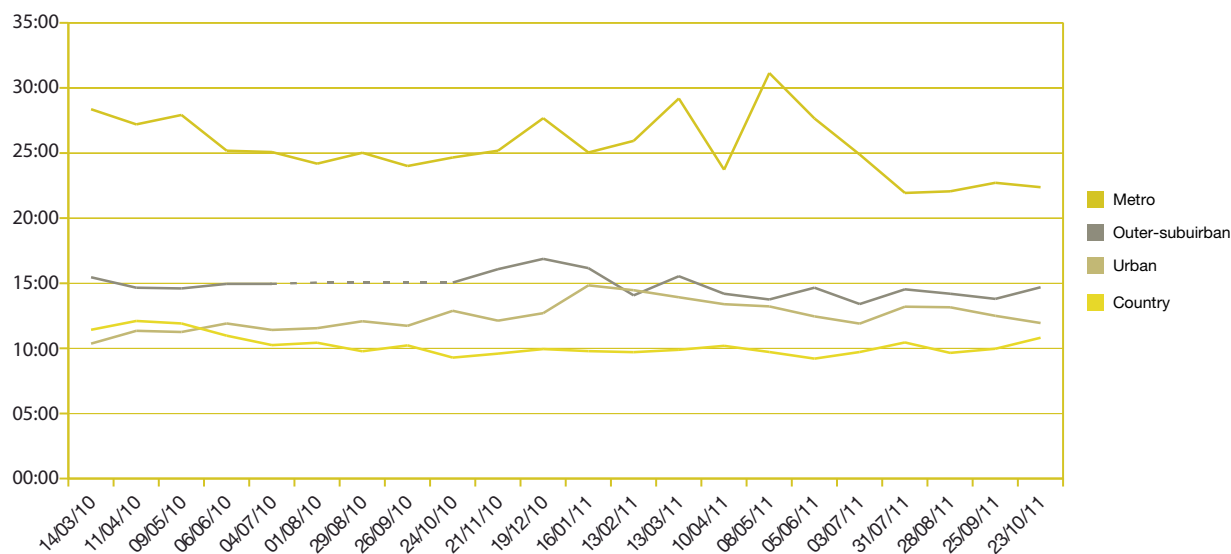
Also in 2010, a survey of people with a disability using both conventional and WATs, revealed that 60 per cent of respondents reported difficulties with the length of time waiting for a taxi, with over 10 per cent reporting having to wait up to one or more hours for a taxi.⁵⁴ Again, delays were more commonly experienced by passengers in metropolitan Melbourne than in non-metropolitan areas. Delays are also closely linked to periods of peak demand. The inquiry received many submissions from users about the lack of available WATs at school drop-off and pick-up times and during Friday and Saturday nights (see Figure 15.9). This reflects the prevalence of privately arranged regular work and the use of WATs for late night high occupancy work.

52 David Brumby, Submission to the Taxi Industry Inquiry, SS100a, p.1

53 Market Solutions P/L (2010), p.23

54 Market Solutions P/L (2010), Op. Cit., p.23

Figure 15.8 Wait times for ready-to-ride services, PBBS



Note: The broken line takes account of the significant disruption in the outer-suburban zone caused by one of the NSPs transitioning to a new dispatch system. The sharp peaks and troughs in the metropolitan data (which differ from Figure 15.7) are caused by erroneous data supplied by the metropolitan NSPs.

Source: VTD/PBBS

Table 15.3 Reported wait time for immediate pick up WAT

	Metro		Non Metro	
	Phase 2 (n=123)	Phase 1 (n=197)	Phase 2 (n=22*)	Phase 1 (n=133) ^
	%	%	%	%
No waiting	2	4	5	9
1 but less than 10 mins	5	4	9	5
10 but less than 20 mins	36	30	50	38
20 but less than 30 mins	17	13	27	15
30 but less than 60 mins	24	28	0	15
60 mins or over	16	21	9	18
Mean number of minutes	29	31	18	23

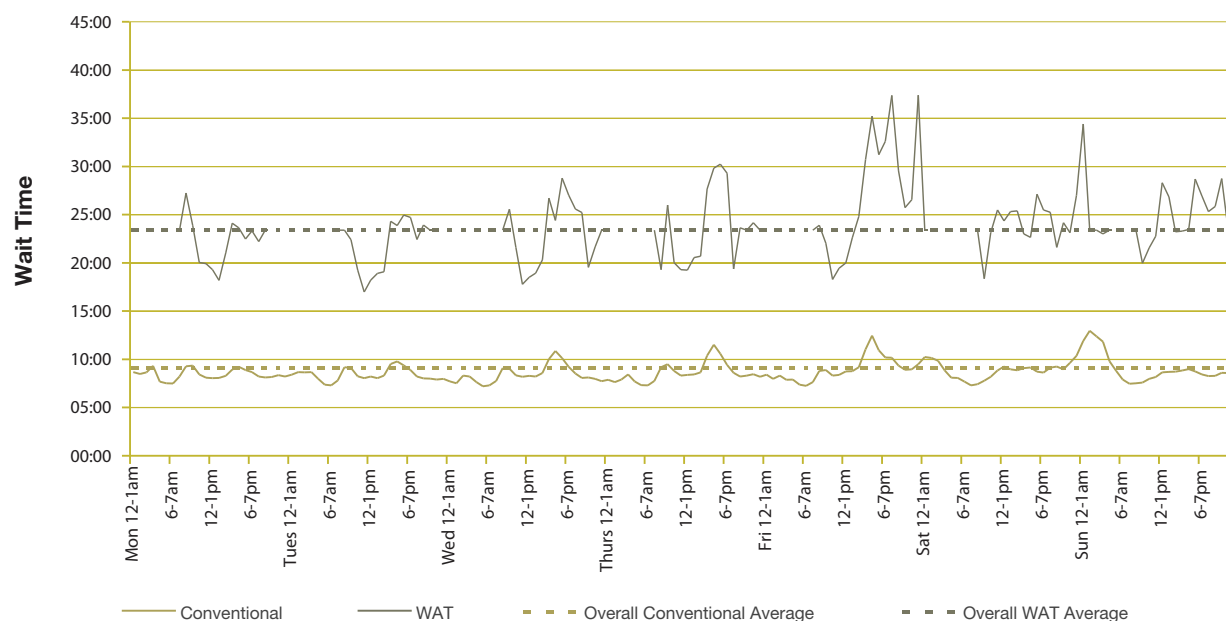
* Caution: small sample size. Note: Outliers removed in calculation of Phase 2 mean
Source: Market Solutions P/L (2010)

These gaps in the network service severely limit choice and flexibility for WAT users. As one young person states in the Youth Disability Advocacy Service's submission:

“Like other young people, I want to be able to go out on a Saturday night and know that I can get home safely, not worry about whether I will literally wait hours for an accessible cab.”⁵⁵

55 Youth Disability Advocacy Service (YDAS), Submission to the Taxi Industry Inquiry, SS147, p.13

Figure 15.9 Average metropolitan ready-to-ride wait times by hour and day in 2011



*Average WAT wait data points have been omitted where there were less than 50 waits for that hour in 2011

Source: NSP data

As shown above, non-metropolitan WAT users have substantially shorter wait times than those in Melbourne, averaging 11 minutes for ready-to-ride and five minutes for pre-booked services (according to PBBS results). The VTD has questioned whether any benefits are being realised through the PBBS in regional areas where the networks were already performing well in relation to WAT bookings. The VTD suggests that, rather than acting as an incentive to improve services, some of the larger country NSPs are simply being rewarded under the PBBS for existing, well-managed private bookings.

Reliance on secondary networks

While some people really value a personal relationship with a particular driver or groups of drivers – and the ability to make this choice is an important indicator of consumer empowerment – reliance on specific taxi drivers by parts of this sub-market can affect the overall availability of WATs (with a flow-on effect on those parts of the market that do not use private bookings). It also limits the flexibility of taxi services: using particular drivers requires planning ahead and sometimes changing plans to suit the driver's schedule, making spontaneous travel decisions almost impossible. As one user of a preferred driver told the inquiry:

If I can't get my regular driver, I probably won't go out, cos I will spend the whole time worrying, will my driver turn up, will I get stuck?⁵⁶

56 Scope, Op. Cit., p.2

Inquiry findings

- ➔ Poor reliability and long wait times remain widespread concerns for taxi users with a disability, especially those who use a wheelchair and require a WAT.
- ➔ The current regulations in place to encourage more reliable WAT services are relatively recent initiatives and have not been systematically evaluated, making it difficult to assess their effectiveness. In some cases, such as the recent release of WAT licences in Melbourne, it may be too soon to see their full effects.
- ➔ 'Tariff 3' acts as a disincentive for operators and drivers to undertake wheelchair work.
- ➔ The performance of booking companies is a key determinant of wait times for WATs. The available evidence suggests that this performance is poor relative to other jurisdictions and that many taxi users with a disability have lost confidence in the booking system
- ➔ The introduction of the WAT Performance Based Booking System has not made significant inroads into wait times in metropolitan Melbourne and the substantial incentive payments made by the Victorian Government to NSPs under the scheme is not achieving sufficiently strong results to justify its cost.

15.4.2. Driver quality

Almost all taxi users with a disability note the importance of taxi drivers to the provision of a reliable and safe service. As reported in section 15.1.2, many of these taxi users have significant concerns about driver behaviour. Many of these more 'general' concerns are discussed in chapter 13.

More specifically, taxi users with a disability report concerns about poor driver communication and disrespectful behaviour, fears of drivers overcharging and poor practices in securing wheelchairs and passengers.

Wheelchair security

Several wheelchair passengers informed the inquiry that some drivers do not use the tie-down systems properly. The inquiry received reports of passengers being injured, some seriously, after their wheelchairs were improperly restrained. This behaviour appears to be due to a lack of knowledge and practice, and a failure to appreciate the importance of securing passengers. One wheelchair user told the inquiry:

The majority of times when we travel to Melbourne, we find that the drivers cannot find the tie down points and on many occasions I have had to ask to be restrained as I am quite often just left sitting in the back of the taxi.⁵⁷

One respondent to the 2010 VEOHRC survey commented:

Often drivers do not want to use chair restraints or provide a seat belt, have no idea how to use them, or they are broken. They often act amazed or angry that I insist on being safe and secure.⁵⁸

Here again, taxi users try to avoid these issues by booking services through drivers they know and trust. The VEOHRC submission reflects the views of a number of users and service providers:

Service delivery [is] better where the service [is] delivered by an owner-driver or where personal relationships [have] been established with regular drivers. However, personalised service is not always possible and it should not be necessary for a person with a disability to know the driver in order to feel safe.⁵⁹

Driver behaviour and training

As discussed earlier, the current training curriculum for metropolitan conventional taxi drivers refers only briefly to 'customers with special needs' and the time devoted to these areas varies across training organisations. In addition, the more comprehensive disability training for WAT drivers ignores the fact that some 135,000 MPTP members do not use a wheelchair (and often cannot access WATs) and that many people with a disability are not MPTP members.

In its submission to the inquiry, VEOHRC repeated its recommendations from the *Time to Respond – three years on* report that driver training course content should include, at a minimum:

- Disability awareness, particularly in relation to communication – noting that respondents to the 2010 VEOHRC survey noted that taxi drivers had difficulties in communicating with passengers with vision and hearing impairments and those with speech impairments
- Legal obligations under the *Equal Opportunity Act* and *Disability Discrimination Act*, including the obligation to transport assistance dogs
- For drivers of WATs, compliance with the Australian and New Zealand Standards for Transport in relation to use of tie-down points and safe handling of wheelchairs and scooters.⁶⁰

The inquiry also notes Vision Australia's concern that, in addition to training, effective enforcement and penalties are required for issues such as transporting assistance animals in taxis. Despite significant efforts in raising awareness about driver obligations, the inquiry has heard recent examples of drivers refusing to transport people with their guide dogs.

Inquiry findings

- ➔ Widespread concerns about driver behaviour in relation to passengers with a disability suggest that driver training should be improved in this area.
- ➔ Enhanced training in disability awareness and in assisting and communicating with passengers with reduced mobility should be a requirement of all driver training, not just for WAT drivers.
- ➔ An effective monitoring and complaints system with appropriate penalties are important tools in improving driver behaviour.

⁵⁷ Phillip Walker, Submission to the Taxi Industry Inquiry, SS174, p.1

⁵⁸ VEOHRC (2010), Op. Cit., p.10

⁵⁹ Ibid., p.11

⁶⁰ Ibid., p.11

The inquiry also queries the effectiveness of the current subsidies for WAT driver training. While around 80 per cent of all drivers have undertaken the WAT course, operators continue to complain about a shortage of WAT drivers. It appears that drivers are undertaking the course without any intention of driving a WAT.

This is most likely due to two reasons. First, both major metropolitan NSPs are involved in the delivery of WAT driver training. For obvious reasons, they wish to attract as many students as possible and their introduction of in-cab technology that only allows drivers with WAT accreditation to log on to WAT vehicles has persuaded drivers and operators to obtain WAT accreditation. Secondly, the fact that drivers and operators incur no expense for WAT training has led to an oversupply of the course. These outcomes suggest that the cost of subsidising the course far exceeds the benefits.

15.4.3. Affordability

The cost of taxi services is a significant concern for mobility disadvantaged people. Even with the MPTP subsidy, taxi trips cost substantially more than a comparable public transport fare. For people who rely upon taxi services for their mobility, the financial impact can be considerable.

Fares

While concerned about the general affordability of taxi services, a significant number of taxi users with a disability want to see greater fare certainty and transparency, believing that this will give them more confidence that drivers are not taking advantage of their vulnerabilities. Participants at the Taxi Industry Inquiry-VCOSS forum made a number of suggestions to promote greater certainty in fare costs and financial security, including quotes for a fixed fare (or fare ceiling) for a given journey at the time of booking, allowing a fixed fare to be pre-paid at the beginning of a journey and allowing fare negotiation.⁶¹

Forum participants, and other taxi users, also expressed concern at the necessity of disclosing private financial information to drivers or relying on drivers for fare information if they cannot read the taximeter. One user pointed out that EFTPOS machines are often unable to reach a person in the rear of the vehicle, meaning that the passenger must disclose their PIN number in order to complete a transaction. Several users thought that smartphones may offer ways of paying taxi fares that keep payment details secure and in the control of the user.⁶²

Case study

Underspending the MPTP subsidy in some regional areas

In 2009, the East Gippsland Transport Access Group submitted a report to the VTD to highlight the financial barriers faced by people with a disability living in regional areas who need to travel long distances.

The report – *Multi Purpose Taxi Card Program: Underspending Concerns* – noted that MPTP cardholders in East Gippsland were not making full use of their MPTP subsidy as the long distances they needed to travel between towns and outside East Gippsland made regular taxi trips unaffordable, even at half price.

MPTP cardholders were underspending the subsidy cap and saving their yearly subsidy for a 'rainy day' – in case they needed to make one or two long trips in an emergency. As a result, cardholders were not accessing other essential services, reducing their opportunities to participate in community life and increasing their social isolation.

MPTP

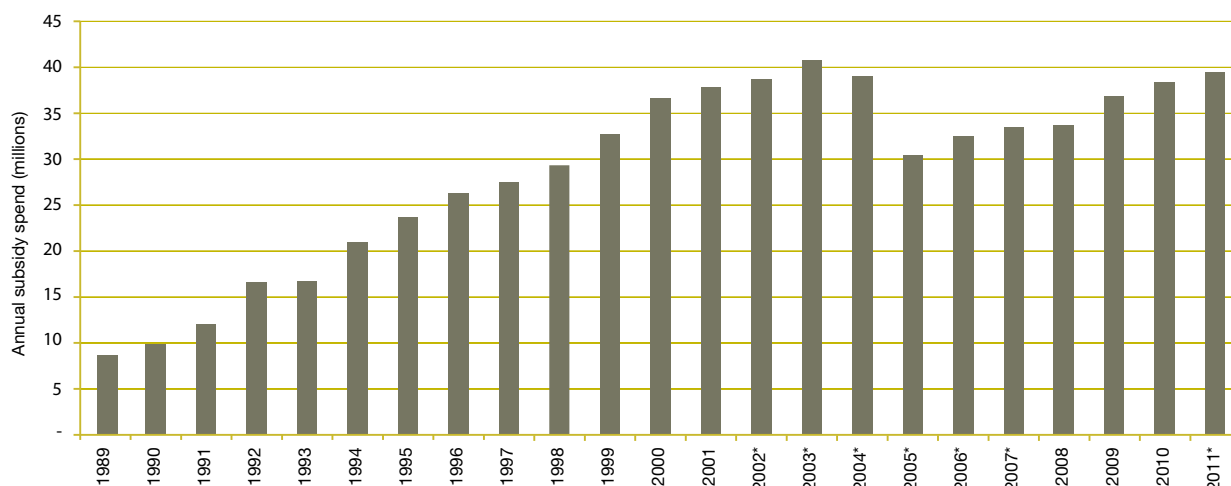
While many countries offer some form of subsidised or specialised transport for people with a disability or reduced mobility, the MPTP is a relatively generous scheme compared with those found in other jurisdictions. The program also has one of the highest per trip caps within Australia. The MPTP is also relatively easy to use, with a smartcard for accessing subsidies.

As noted in section 15.1.3, while the inquiry received many submissions expressing appreciation for the MPTP, many respondents also believe that the program could be made more responsive to the needs of mobility disadvantaged Victorians. In particular, there is concern that frail, older individuals who have their driver licence suspended by VicRoads may be left socially isolated through a lack of affordable and accessible transport options. These individuals may not meet the current MPTP criteria for having a 'severe and permanent' disability, and may not be able to access public transport for part or all of their journey or afford full-priced taxi fares. Also, the program being 'locked' to taxi services is seen as limiting members' ability to choose forms of transport that may better reflect their specific needs and circumstances.

61 VCOSS (2011), Op. Cit., p.20

62 Ibid., p.20

Figure 15.10 MPTP membership and cost trends



Source: VTD

These concerns accord with the principle of the proposed National Disability Insurance Scheme (NDIS) that disability support be individually tailored, based on need and with genuine choice about how needs are met.⁶³ The inquiry is interested in hearing from MPTP members and others about how these principles can be applied to the MPTP in the short term, as well how the Victorian subsidy program can be made compatible with the proposed NDIS in years to come.

The MPTP should also be considered in a context where public transport is gradually becoming more accessible, particularly in metropolitan areas. People who are able to safely access public transport services almost invariably chose public transport over taxi services where they can. The 2010 VEORHC survey found that between 2006 and 2010, there was a statistically significant increase in the number of people with a disability who said they would use public transport as an alternative to taxis.⁶⁴ Although a fundamental element in eligibility for MPTP is an inability to travel independently on public transport, many MPTP members may be able to access parts of the public transport network as its accessibility improves. It is sensible to encourage public transport use where it is cheaper than subsidising half the cost of taxi journeys.

Some respondents told the inquiry that the \$16.50 replacement fee for a lost or damaged MPTP card is excessive, especially as lost cards are often beyond the control of users. The inquiry has found little policy basis for the introduction of this fee which is likely to be significantly higher than the actual cost of card replacement.

There are also concerns about the ongoing financial sustainability of the MPTP. Since its introduction (and excluding 2004 when means testing was introduced), the membership and the cost of MPTP has grown steadily each year (see Figure 15.10). Over the past five years, approximately 10,000 new members joined the program each year. This is likely to continue due to an ageing population and to the shift by disability support providers towards transport options (such as taxis) that match tailored support packages and facilitate inclusion in the community. These trends potentially increase the demand on the MPTP.

The inquiry understands that the VTD is assessing ways to improve the effectiveness of the MPTP and that this may include issuing shorter-term MPTP membership to some applicants with a requirement for reassessment after a certain period.

More broadly, the Productivity Commission has indicated that it has concerns about the potentially large costs associated with taxi travel subsidies and that alternative transport options are needed:

*The potential for controlling the costs of taxi subsidies, as well as providing reasonable transport entitlements, will lie in alternative modes of transport. This is likely to include a significant increase in the use of community transports, as well as other innovative programs.*⁶⁵

63 National Disability Insurance Scheme, Productivity Commission Inquiry Report, July 2011, Executive Summary, p.20

64 Market Solutions P/L (2010), Op. Cit.

65 Productivity Commission (2011), *Disability Care and Support*, p.253

Inquiry findings

- ➔ The MPTP is highly appreciated by users, but could be better tailored to meet the needs of mobility disadvantaged taxi users.
- ➔ Consideration should be given to expanding eligibility for the MPTP or the transport services that can be accessed using the program. In particular, the transport needs of frail, older people who have had their driver licence suspended by VicRoads could be met by the program.
- ➔ More flexible use of taxis, including shared rides and fixed fares, are key opportunities for reducing the cost of taxi travel for people with mobility disadvantage.
- ➔ The proposed National Disability Insurance Scheme has the potential to significantly change the way disability support is administered nationally. The MPTP needs to be compatible with this more tailored, individualised focus.

15.4.4. Financial viability of WATs

As the type and regularity of work with regular customers varies considerably between operators or drivers, so too do reports of the viability of operating or driving a WAT. The inquiry is aware that some operators have established close links with disability organisations, aged care facilities or schools and that this gives them a steady stream of privately arranged work.

In one exercise conducted by the inquiry, comparing the average hourly earnings of WAT drivers and conventional drivers in a medium sized metropolitan fleet showed that WAT drivers earn several dollars more per hour than drivers of conventional taxis. On the other hand, submissions from one operator of a recently released metropolitan WAT licence reveal that some new entrants are finding it very difficult to access wheelchair work and this is affecting their viability. One submission to the inquiry from taxi operators reflects these concerns:

“...the government released 330 vans [but there is not] much work for them with high expenses.”⁶⁶

Another submission outlined factors that can affect the financial viability of the new metropolitan WAT licences, including:

- Many non-wheelchair passengers refuse to take WATs from ranks.
- Elderly persons cannot easily board these vehicles and do not like using them.
- Vandalism is higher than in conventional taxis, especially in the rear area on busy nights. This also makes it more difficult to find WAT drivers for the night shift.
- Cost of repairs is often higher than other vehicles and insurance premiums are higher.
- The growing use of shuttle buses to and from the airport and hotels has affected the WAT business.
- To run the business profitably, operators have to drive 12 to 16 hours a day, which is tiring and potentially unsafe, and also affects the level of customer service offered.⁶⁷

These issues, as well as higher fuel, insurance, servicing and parts costs, have led some WAT operators to tell the inquiry that they are struggling to maintain their businesses and would be better off driving conventional taxis.⁶⁸

A 2005 study of WATs in NSW concluded that WATs are commercially viable, but that government subsidies and access to non-wheelchair work are critical to this viability.⁶⁹ When private bookings dominate the metropolitan WAT market, operators and drivers without these private connections miss out on the subsidised work. This imbalance in WAT work also raises the broader efficacy of the ‘lifting fee’: for example, data collected by the VTD reveals that one WAT vehicle, presumably working closely with several disability organisations, generated approximately \$90,000 in lifting fees in 2011. This suggests that any increase in the lifting fee will disproportionately benefit those operators and drivers who are already operating very successfully.

The NSW report also found that WATs rely on standard taxi work to cross-subsidise their daily operations.⁷⁰ The inquiry’s investigations show that the proportion of wheelchair work varies between Victorian WAT operators, with some operators doing only or almost exclusively wheelchair work, as shown in Figure 15.11.

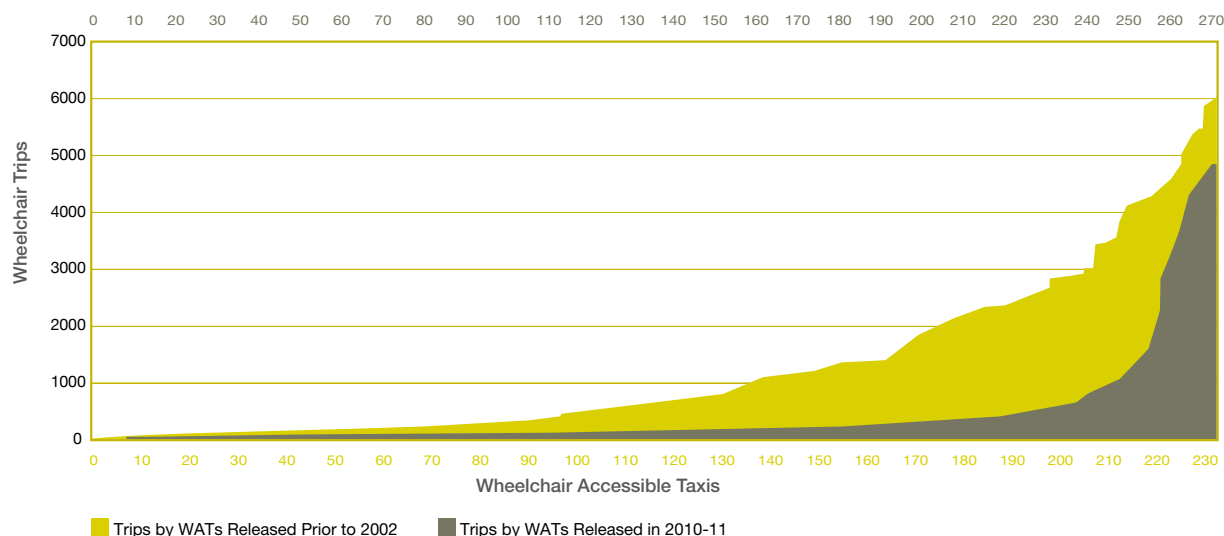
66 Anonymous submission to the Taxi Industry Inquiry, SS68, p.3

67 Allan McMonnies, Submission to the Taxi Industry Inquiry, SS349, p.2

68 Anonymous submissions to the Taxi Industry Inquiry, SS202a-d, p.3.
Operator costs are discussed further in chapter 20

69 Fitzgerald, Ross (2005), Report to the NSW WAT Review Taskforce, p.22
70 Ibid., p.6

Figure 15.11 Wheelchair trip distribution amongst metropolitan WATs



N.B. Trip numbers of WAT licences issued during 2011 have been adjusted upwards to account for days not in operation

Source: VTD

One experienced WAT driver told the inquiry that the release of the 330 metropolitan WAT licences in 2010/11 further reduced the number of wheelchair jobs available to him on the network:

I would average 7 or 8 wheelchair lifts per day from NSP allocation – in recent months this has diminished to 2 per day allocated. This has resulted in a significant reduction in earnings – so much so that I, an experienced WAT driver, am seeking employment outside the industry.⁷¹

Consultations with industry have revealed that taxi network, operator and driver attitudes to managing and growing WAT businesses are key determinants of the viability of these services. The inquiry's view is that a well-run WAT service should be able to open up market opportunities to provide services to a growing number of customers with a disability. It should be able to seek further work through cooperative relationships with community transport providers and government transport programs. The inquiry acknowledges that some potential market opportunities are hampered by regulation and is making recommendations to overcome or lower these regulatory barriers.⁷²

Inquiry findings

- The financial viability of WATs is an important consideration in ensuring adequate availability of accessible taxi services for people who use wheelchairs.
- The current spread of WAT jobs among the metropolitan fleet does not support the ongoing viability of all WAT licences.
- Better use of network services, more innovative use of WAT vehicles and more comfortable WAT vehicles for non-wheelchair users could all improve the profitability of WAT operations.

⁷¹ David Brumby, Op. Cit., p.1

⁷² See chapter 19

15.4.5. Vehicle accessibility and safety

The inquiry received many submissions calling for existing vehicles to have more accessible features and for the vehicle fleet in general to be more accessible. For example, VCOSS reports “general support for a taxi fleet that was universally able to take passengers requiring wheelchair or scooter access” and calls for new design specifications for taxi vehicles to take into account a range of features that could benefit people with reduced mobility.

Taximeters

One concern for people who are vision-impaired is their lack of independent access to the taximeter. These users have to rely on the driver to tell them the fare at the end of their journey and some report incidences of drivers using overcharging. One user told the inquiry:

“Being legally blind, they often think I must be stupid by trying to short change me or take me the long way.”⁷³

Vision Australia, Blind Citizens Australia and Guide Dogs Victoria all call for ‘talking taximeters’ to be installed in all Victorian taxis. The inquiry is aware that this technology is available overseas and that there is capacity to provide it locally. For example, Martin Meters has developed a Taxi Information Processing System that provides a talking taximeter that also automates tolls and provides a breakdown of all elements of the fare, including, tariff type, additional fees and the MPTP fare split.

The inquiry was given a demonstration of the operation of a talking taximeter, which made it clear that these meters offer significant advantages for all taxi users, not only people who are vision-impaired.

Inquiry finding

- Taximeters capable of voice transmitting elements of the fare offer benefits across the fleet, including promoting much greater consumer awareness of fares and potentially preventing many disputes over fares.

Vehicle standards

The dimension requirements of the DSAPT and VicRoads standards (see section 15.3.3) restrict the number of vehicles that can be considered as WATs. All suitable vehicles require conversion, whether that involves lowering the floor, repositioning passenger seating or installing wheelchair restraint systems. Conversions are assessed by the VTD for compliance with Australian Design Rules, DSAPT and VicRoads standards.

The rectangular prism for allocated wheelchair space currently being enforced by the VTD in anticipation of its introduction into DSAPT is particularly limiting. The inquiry has heard that strict application of the prism is impractical and has adverse effects on other features of WATs. Wheelchair users do not need a full three dimensional rectangular space and, by imposing this space, some otherwise accessible vehicles cannot be used as taxis. One vehicle conversion company explained to the inquiry how the Kia Grande Carnivale must shift its passenger seats forward by 70 millimetres to accommodate the prism. This leaves little leg room for non-wheelchair using passengers and has become a source of complaints. The need to accommodate the prism also means that the Kia’s floor must be lowered so that the door’s trim does not intrude (albeit negligibly) into the top edge of the prism space.

Inquiry finding

- The enforcement of a strict prism-shaped allocated space is problematic and affects the use of better, more widely accessible WAT vehicles. Victoria’s experience in applying this standard demonstrates the shortcomings of such inflexible regulation.

73 Youth Disability Advocacy Service (YDAS), Op. Cit., p.3

Licence conditions

Some licence conditions are even more limiting for the choice of vehicle. While all metropolitan WAT licences issued prior to 2010 must be able to accommodate at least two occupied wheelchairs, very few vehicles (aside from the Toyota Hiace) can accommodate two wheelchair spaces. The change to requiring only one wheelchair space for the 330 new metropolitan WAT licences has led to a slight increase in people-mover vehicles and greater variety within the WAT fleet. The inquiry's view is that the wheelchair lifting fee is sufficient incentive to ensure that there continues to be enough double wheelchair taxis.

Universally accessible vehicles

There is strong support for a 'universal' or purpose-built vehicle that is accessible to all taxi users and takes into account the many different uses of taxis. Respondents to the inquiry point out that a universally accessible fleet will enable people with a disability to choose to travel under the same conditions as other taxi users, including hailing cabs in the street. More broadly, it will help to meet the transport needs of an ageing population and open up opportunities for expansion of the taxi market.

The inquiry supports in principle the idea of universally accessible vehicles making up the Victorian taxi fleet and is making a number of recommendations to remove unnecessary barriers to achieving this outcome.

There has been somewhat restrained interest in universally accessible vehicles for some time. Almost every review of the taxi industry in Australia over the past two decades has discussed the benefits of a universally accessible fleet, but very little has been done to progress the idea. Most recently, the 2010 NSW Select Committee on the NSW Taxi Industry recommended:

That the NSW Minister for Transport request the Australian Transport Council undertake a feasibility study into the introduction of a universally accessible taxi fleet in Australia, and as part of this study examine ways in which the standard taxi fleet can be upgraded to be wheelchair accessible taxi compliant, including financial incentives.⁷⁴

Again, little appears to have occurred in response to this recommendation.

Support for a universally accessible vehicle does not mean mandating a particular vehicle to be used by all operators. A variety of purpose-built and accessible taxi vehicles will assist in different situations. For example, the NSW Select Committee inquiry recommended that the percentage of WATs in the NSW fleet be increased from the current 11 per cent to a minimum of 50 per cent by 2020.⁷⁵ Without the availability of a more universally accessible vehicle, this reform will be difficult to implement. A larger WAT fleet will only be viable if the vehicles can compete with standard taxis in providing taxi services to the general public. As already mentioned, current commercial vans are not popular with the general public and often inaccessible for people with reduced mobility. Universally accessible taxi vehicles could maximise the use of each vehicle and improve the overall efficiency of the industry.

The absence of an existing universal vehicle that meets Australia's accessibility standards, the automotive industry's disinterest – and the costs relative to the small Australian market – have stood in the way of a universally accessible vehicle being produced for the Australian market. However, developments overseas and a growing interest in the viability of universally accessible vehicles in Australia have been considered by the inquiry.

In one particular example, the experience in New York and the resulting fallout (see case study) may have an effect on the availability of accessible vehicles around the world in the future.

As Australian regulations governing the dimensions of WAT vehicles exceed those in overseas jurisdictions, it is unlikely that any vehicles developed for other markets will be acceptable by current Australian standards. When vehicles such as the London Taxi (see case study) or the MV-1 (see case study) would clearly accommodate the vast majority of wheelchair users, the inquiry considers this a disappointing outcome for all taxi users.

Inquiry finding

- Vehicle standards should allow a much wider range of vehicles to be used as taxis, especially for customers in wheelchairs and using other mobility aides. Any reform to standards should facilitate the use of purpose built, universally accessible and already available vehicles.

⁷⁴ Recommendation 29, Select Committee on the NSW Taxi Industry, Parliament of NSW, Sydney, p.137

⁷⁵ Ibid., Recommendation 21, p.119

Case study

The London Taxi

In the United Kingdom, accessible taxis are defined and required under the *Disability Discrimination Act 1995*. All taxis operating in the UK are to be wheelchair accessible by phases, with full compliance by 2020.

London's entire taxi fleet of over 20,000 cabs has been wheelchair accessible since the first phase in 2000. The 'Conditions of Fitness' issued by London's Public Carriage Office require that 'every taxi must be equipped to approved standards in order that wheelchair passengers may be carried'.⁷⁶

The iconic purpose-built 'London Taxi' was remodelled in 1989 to become wheelchair accessible. Other vehicles, such as the Mercedes Vito, are also wheelchair accessible and approved by the Public Carriage Office for use as a licensed London 'black cab'.

The inquiry has received several submissions about London's taxis. For example, Professor Murray Gillin AM shares his views on the benefits of this vehicle:

- “
1. *The London taxis are easily identifiable.*
 2. *Access is easy as you can step into the back seats. One does not have to slide into a confined back seat of the current sedan.*
 3. *Compartmental seating for 4-5 is such as to enable good communication between passengers.*
 4. *The purpose built baggage bay is directly accessible from pavement and does not require waiting for often a confined boot to be opened by driver.*
 5. *Importantly the driver is fully protected from potential attack of a passenger.*⁷⁷
- ”

There is little doubt that these vehicles provide improved accessibility, efficiency and comfort for all passengers and drivers. Unfortunately, the dimensions of the London Taxi do not meet Australia's Disability Standards for Accessible Public Transport (DSAPT). The DSAPT exceed the requirements of London's Public Carriage office for accessibility. For example, the vertical distance from the floor to the roof need only be 1.3 metres in London, while in Australia at least 1500mm will be required from 1 January 2013.

As such, even if this vehicle became available and affordable in Australia, it could not be approved as a wheelchair accessible taxi under current regulations.

⁷⁶ See www.taxi-library.org/cof.htm, accessed 27 April 2012

⁷⁷ Professor L. Murray Gillin, Submission to the Taxi Industry Inquiry, SS192, p.1

Case study

Accessible taxis in New York

Currently, less than 2 per cent of New York's taxi fleet are wheelchair accessible.⁷⁸ The taxi system operates alongside a paratransit system, 'Access-a-ride', which is a demand responsive, shared-ride, door-to-door service for people with a disability unable to access public transport. At \$66 per fare, this separate system costs New York City \$450 million per year.

Taxis of Tomorrow?

In 2009, the New York Taxi and Limousine Commission (TLC) called for proposals for purpose-built taxi designs to serve as New York City's exclusive taxi-cab. The reward for the chosen design was a 10 year contract worth approximately one billion dollars. Desired qualities for the new vehicle included:

- Superior passenger experience
- Superior driver comfort and amenities
- Appropriate purchase price and on-going maintenance and repair costs
- Sustainability (minimised environmental impact throughout the vehicle's life cycle)
- Minimal physical footprint (with more useable interior room)
- Universal accessibility for all users with a goal of meeting ADA guidelines (wheelchair accessible).

Several designs were entered, including an Australian prototype called the Unicab Eco Taxi, a modern and innovative design that is wheelchair accessible and includes features to support shared fares.

Only one of the three finalists, the Karsan USA V1, was wheelchair accessible. Despite the Karsan's popularity with New Yorkers, the TLC selected the non-fully accessible Nissan NV200, a converted minivan, as the Taxi of Tomorrow.

Following this announcement, a number of advocates for people with a disability sued the NYC TLC for violation of the *Americans with Disabilities Act (ADA)*. An additional grievance for wheelchair users was the TLC's plan to issue 30,000 licences for livery cabs to pick up street hails in the outer boroughs when none of these vehicles are required to be accessible.

The lawsuit and public debate revolve around whether taxis are part of the 'public transportation system' and thus fall under the requirements of the ADA.

In response to orders from the State legislature, the TLC amended the livery licensing plan to require that one fifth of the now 18,000 new licences be wheelchair accessible. The city has also promised to provide up to \$54 million in subsidies and loans to encourage drivers to buy vehicles that accommodate disabled riders. In addition, 2,000 new yellow cab medallions will be sold only for wheelchair accessible cabs. Meanwhile, Nissan has further developed the NV200 as a purpose-built taxi vehicle – highly accessible in many ways, but still not wheelchair accessible.

The New York experience suggests there is a growing recognition of the need for universally accessible vehicles and of the importance of legislative requirements in ensuring better vehicles are available.

The Mobility Vehicle One (MV-1)

The MV-1 is the first ever vehicle designed from the ground up that is fully compliant with ADA standards. It features side ramp entry, a wheelchair restraint system and requires no conversion. The New York TLC has approved the vehicle as a taxi-cab – a significant development for disabled passengers.

⁷⁸ Information provided to the Taxi Industry Inquiry from the NYC Taxi and Limousine Commission

15.4.6. Accountability

While legal obligations are laid out clearly in the relevant Victorian and Commonwealth laws, the unusual structure and numerous layers of the taxi industry make accountability very difficult to apply to the various players. As the Victorian Equal Opportunity and Human Rights Commission notes:

...[the] complexities of the Victorian system including a prevalence of bailment and the role of Network Service Providers, and inconsistent case law regarding provision of goods and services, means that there is currently a disconnect between notional accountability under the Equal Opportunity Act 2010 and actual accountability.⁷⁹

This disconnect was demonstrated in *Ball v Silver Top Taxi Service Ltd* [2004]⁸⁰ where a wheelchair user filed an application alleging that Silver Top Taxi Service had breached the terms of the Disability Discrimination Act 1992 because the WAT she booked did not arrive in time for her to take her daughter to a Wiggles concert. While the court found insufficient evidence of indirect discrimination, it expressed “discomfort” about certain aspects of Silver Top’s methods of operation and its management of WATs and their operators.⁸¹ During proceedings, it was admitted that Silver Top requires drivers to be licensed, but does not require them to abide by the terms of their licences.⁸² This makes it particularly difficult for consumers to hold the industry to account for discriminatory service provision. Drivers are often transient and difficult to identify; operators are usually invisible to passengers; and NSPs assume no responsibility for the booking and dispatch service they purport to provide.

Making a complaint

As noted in chapter 3, mobility disadvantaged taxi users and their advocates are highly critical of current mechanisms for making a complaint about taxi services. Particular concerns include that the complaints process is not promoted adequately to people with a disability; that the process itself is not accessible to people with a disability; and that many people do not know where or how to make a complaint. The VEOHRC also noted that a number of respondents to its *Time To Respond* survey said they were afraid to complain as they felt vulnerable to retribution from drivers.⁸³

Taxi users with a disability were strongly in favour of an independent complaints handling system.

Inquiry findings

- Victorians with mobility disadvantage are an important user group of taxi services and many have participated in the inquiry’s consultation process.
- The needs of mobility disadvantaged users have been closely considered in the development of the inquiry’s industry-wide recommendations and the inquiry’s broad reforms will benefit these users.
- Innovation outside government regulation in areas such as communications technology and vehicle design should also lead to improvements in accessibility for people with a disability.

⁷⁹ VEOHRC, Letter to the inquiry, Op. Cit.

⁸⁰ *Ball v SilverTop Taxi Service Ltd* [2004] FMCA 967 (15 December 2004)

⁸¹ Ibid., Section 78

⁸² Ibid., Section 86

⁸³ VEOHRC (2010), Op. Cit., p.9

Chapter 16.

16. Country and regional services

Key messages

- Country and regional markets have some distinguishing features that raise unique issues relating to service availability, accessibility and affordability.
- As access to transport is a significant factor in accessing services, activities and opportunities in regional areas, taxis and hire cars play a bigger role in reducing social exclusion and isolation in regional Victoria than in metropolitan Melbourne.
- While customer satisfaction with the quality of regional taxi services is relatively high, poor availability of services, particularly in small towns and more remote locations, is a major issue in many parts of Victoria.
- Some aspects of the current regulatory framework impose an unnecessary cost burden on regional taxi operators and restrict entry, competition and innovation in the regional taxi and hire car markets. These impositions have led to stagnant industry growth and poorer outcomes for country consumers.
- The application of the public interest test, the requirement to paint taxis yellow and restrictions on advertising have a negative impact on the availability and affordability of taxi services in regional areas
- Flexible taxi-bus services have great potential to address service gaps in regional transport markets and regulatory impediments to their development should be removed.
- Better engagement with regional taxi and hire car operators and a stronger regional presence by the regulator is needed to understand and address operator concerns and ensure the success of industry reforms.

While many of the regulatory issues that are relevant to metropolitan taxi and hire car services also apply to country and regional services, these markets also present a very different set of issues relating to service availability, accessibility and affordability, safety, competition and integration with other transport services.

This chapter identifies these issues and the particular concerns of regional taxi and hire car operators. It examines the distinctive features of country and regional taxi and hire markets and how these markets are regulated. Finally, the chapter identifies where reforms are needed and what options are available to improve taxi and hire car services in regional Victoria.

16.1. Introduction

Access to transport is rated consistently by regional communities as one of the most significant barriers to accessing services, employment and education, social networks and recreational activities.

Respondents to the inquiry highlighted not only that regional transport issues are different from those experienced in metropolitan Melbourne, but also that transport needs – and the delivery of taxi and hire car services – vary from town to town and region to region. Geography, population density, changing demographics and existing services all influence the demand and provision of taxi services across regional Victoria. As many people pointed out, this means that the transport needs for residents of large regional centres are very different to those living in small country towns. Similarly, the transport options available for people living in towns close to Melbourne or a large regional centre are different to those living in isolated rural communities or in towns located several hours' drive away from a larger centre.

These differences mean that the demand for taxi and hire car services varies significantly across regional Victoria. It also means that country taxi markets tend to service 'private' and 'social' travel demands, rather than the business and visitor markets. Country markets rely on around 90 per cent pre-booked work, which is a higher proportion than in Melbourne. Urban markets (in the large regional centres) have slightly more rank work but are also predominantly pre-booked. In country towns there is generally just one network service provider (NSP) and most often this is a vertically integrated operation with booking services, licence ownership, operation and driving all closely controlled by one or two individuals.

Country towns also have fewer substitutable transport services, such as buses, and reliance on private vehicles is high. Accordingly, taxis play an important social inclusion role for local residents who do not own a car or who are unable to drive.

Overall, driver quality is not as significant an issue in regional Victoria as it is in Melbourne. Generally, taxi and hire car drivers in regional areas are seen as providing a good quality service; however, the availability and accessibility of services, particularly in more remote locations, are considered major problems across the state. Lengthy and complex procedures for the issue of new licences, together with difficulties in retaining and recruiting new drivers, have compounded these service shortages. Many respondents to the inquiry believe these issues will worsen as the population ages in regional areas.

Other issues identified by taxi and hire car users and operators in regional Victoria include the need for more flexible and affordable transport services, better integration of taxi services with public and community transport, and the higher costs associated with operating a taxi or hire car business in regional areas. Addressing these issues and increasing transport options are seen as being critical to improving access to services and improving people's quality of life, especially for those Victorians living outside large regional centres.

16.1.1. Submissions and consultations

Regional taxi users are more likely to report satisfaction with the quality of services they receive, with many people telling the inquiry that country taxis provide a good standard of service. Drivers know local roads well, often know their customers personally and are familiar with the preferences of regular customers, enabling them to provide a more customised service. Compared to Melbourne, there are fewer safety concerns for drivers and passengers due to passengers often knowing the driver and the high upkeep of vehicles.

These positive experiences are attributed by many taxi operators, customers, local councils and firms to the majority of regional taxi licences being operated by the licence holder, rather than an assignee.

Availability of services

Individuals, businesses and community groups across regional Victoria told the inquiry that taxi services in many areas are struggling to meet a growing demand for door-to-door transport. In particular:

- Taxi services are failing to keep pace with population growth in large regional cities, especially Ballarat and Bendigo, leading to long wait times for taxis on Friday and Saturday nights, on weekdays between 8am and 10am and 3pm and 5pm, and during special events.
- Taxi services are struggling to meet the growing demands of an ageing regional population for efficient, reliable and convenient connections to health and social services.
- There are insufficient numbers of wheelchair accessible taxis (WATs), leading to very long wait times and restricting the ability of people with a disability to participate fully in their communities.
- There is poor availability of taxis to service the regional tourism and hospitality industries, especially during times of high visitor numbers and during major events, such as the Phillip Island Moto GP, food and wine festivals, and major country race meetings.

Cost of services

The cost of taxi services is seen by people in regional Victoria as having a major impact on their travel options. In particular, this impact is felt in places where public transport services are infrequent, such as small towns and remote communities, and on people who do not have access to a car, such as young people, people with a disability, frail elderly people and those on low incomes.

A number of respondents note that the large geographic areas serviced by country taxis means that trips can involve long 'dead running' times for the driver and high fares for the passenger – an accessibility issue noted by both sides of the market. There are no regionally specific operational subsidies provided by government for the servicing of regional populations; however, the Country Wheelchair Accessible Taxi Scheme provides assistance to country operators seeking to upgrade existing vehicles or add new WATs to their fleets.

Flexible service options

Local councils lead the call in regional Victoria for more flexible transport options to better connect rural and remote communities, improve access to social and health services, and increase education and employment opportunities. Fixed route taxi-bus services, shared ride services, fixed fares and more flexible licensing arrangements are identified as options that could improve people's quality of life in regional areas.

Regional local councils support taxi services being recognised as a form of public transport and being integrated with public and community transport to enable a much larger range of flexible options to be considered in transport planning.

16.1.2. 2006 Country Taxi Review

In 2005, the Victorian Government commissioned a Working Group to conduct a review into the operation, regulation and licensing of taxi services in country Victoria. The review's recommendations covered limited operating hours, fare flexibility, provision of WATs, reduced licence and administration fees, changes to the Multi Purpose Taxi Program, operator and driver up-skilling, Government-funded transport opportunities, mobile roadworthy tests, vehicle standards and advertising.

Many of the recommendations were supported by the Department of Infrastructure (DOI) in 2006, with their implementation falling largely to the regulator. The delivery and take-up of the review's initiatives are discussed throughout this chapter. The review also conducted a series of surveys, interviews and consultations from which the inquiry has drawn in assessing the performance of regional taxi markets.¹

16.2. Market features

Victoria's country and regional taxi and hire markets have a number of distinctive features that have developed partly as a result of the characteristics of their local operating environments and partly from the application of the overarching regulatory framework.²

16.2.1. Regional supply of taxis and hire cars

Across regional Victoria, taxi and hire car operations, depots and fleet sizes vary according to population, demand for services and evaluations by the licensing authority. At 31 March 2012, there were 525 country taxi licences, including 115 WATs, operating in regional Victoria, while 237 urban taxi licences (including 35 WATs) operated in the cities of Ballarat, Bendigo and Geelong. There were 497 hire car licences operating in regional Victoria, of which 70 were issued for pre-booked work where the licence holder has an operational address outside the metropolitan hire car licence zone and the remainder were Special Purpose (SV) and Restricted Hire (RH) vehicles largely servicing the wedding and tour industries.³

Data provided to the inquiry suggests that urban and country taxis tend to deliver a higher number of services per day than taxis in the metropolitan zone. In 2011, taxis in the urban zone averaged 28 trips per taxi per day, while metropolitan taxis average 17. Data from the country zone is insufficient to provide an accurate average; however, some taxis performed 30 jobs per day in 2011.⁴

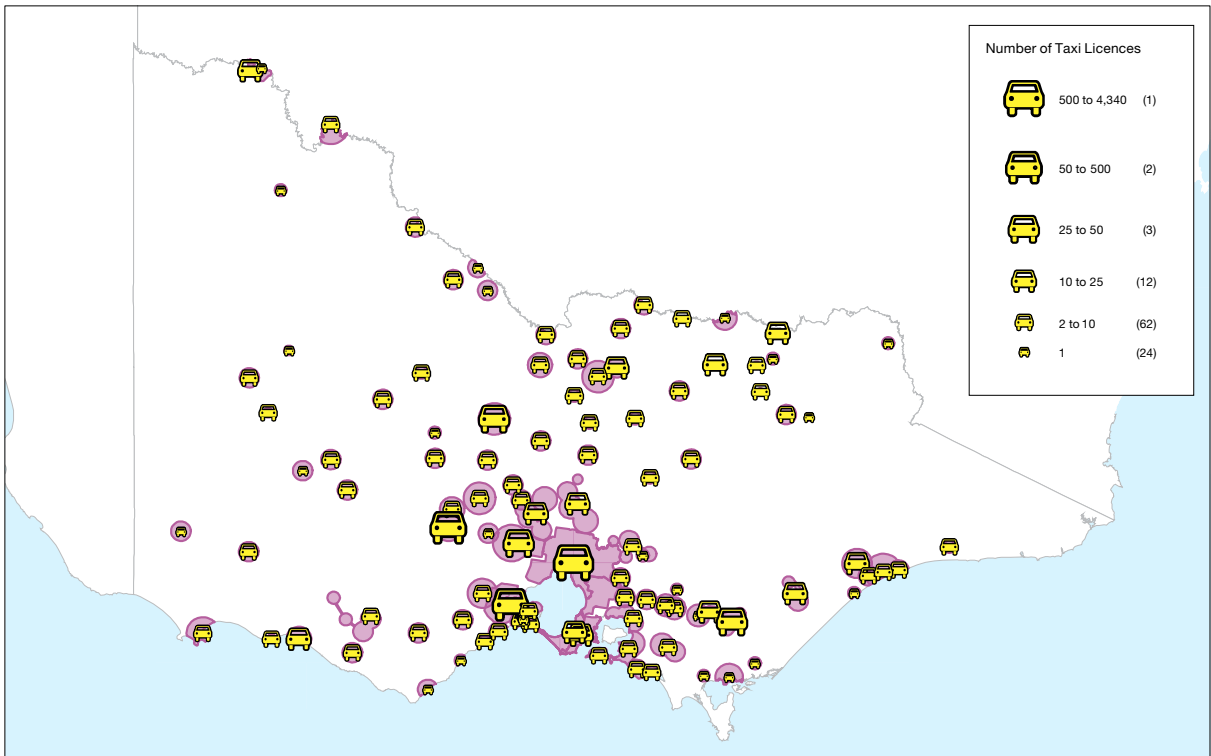
¹ Country Taxi Industry Review Working Group (May 2006), Country Taxi Review Final Report, Victorian Government

² See chapter 7 for a detailed explanation of the regulatory framework governing taxis and hire cars in Victoria

³ Details of hire car licensing and zoning are discussed in chapter 14.

⁴ Data provided to the inquiry by NSPs

Figure 16.1 Distribution of taxi fleet in regional Victoria



Source: VTD

Figure 16.2 Distribution of hire car fleet in regional Victoria



Source: VTD

Generally, country and urban zone taxi numbers correspond to the population in a town or region; however, there is great variation in the number of taxis per capita. Urban, country and outer suburban zones have a lower number of taxis per thousand people than the Melbourne zone. These disparities are caused by a number of structural and regulatory factors, such as the public interest test assessments conducted by the Victorian Taxi Directorate (VTD), which limit new entry unless certain conditions are met.⁵ Cooperative network arrangements can further stifle new entry into country and regional markets as all operators have a stake in maintaining a certain level of business for the network. As noted above, the demand for services in country areas is also very different to urban areas, with high private vehicle usage having a significant effect on the use of taxis by certain sections of the population.

Table 16.1 Taxis per capita by zone

Zone	Taxis per 1,000 people
Metropolitan Melbourne	1.56
Outer suburban	0.33
Urban	0.72
Country	0.48

Source: VTD and DPCD

Within zones, there is a great disparity in taxis per capita. Ballarat and Bendigo have relatively low numbers of taxis per head of population: Ballarat has 57 taxis servicing a population of around 84,000, while Bendigo has 45 taxis for a population of around 82,000. Caution must be exercised in considering these numbers, as greater city areas may encompass smaller towns within which another taxi operator may be operating.

The numbers of taxi and hire car licences issued to regional and country markets has been fairly stagnant in the past 10 years. Since 2006, the size of the taxi fleet servicing country and urban markets has grown by just 45 licences. A large portion of this increase has been the 43 WAT licences issued since 2003, largely as a result of the Country Wheelchair Accessible Taxi Scheme. In the urban zone there have only been six additional licences issued since 2006 – an increase of less than three per cent despite an estimated regional population increase of nearly 10 per cent⁶. Further discussion on the low number of licences issued in regional Victoria is contained in chapter 10.

As noted in chapter 14, no country hire car licences were issued between 2002 and 2009.

16.2.2. Licence values

The pricing of country taxi licences varies greatly and, in many cases, the 'book value' of the licence reflects a number of hidden costs associated with the taxi business. The inquiry understands that when many country and regional licences are transferred, the licence value incorporates the goodwill of the incumbent as well as taxi assets such as vehicles, in car technology and booking systems.

Between 2001 and 2012, 362 taxi licences were transferred in the urban and country zones:

- In the urban zone in the last 10 years, 117 licences have been transferred at an average price of around \$240,000, ranging from \$110,000 to over \$420,000. Over the last three years, the average price has increased to around \$310,000.⁷ The average assignment price in the urban zone for 2010/11 was \$1,880 per month, with each of the urban operators assigning similar fees.
- In the country zone, 245 licences were transferred between 2001 and 2012 at an average price of \$135,000, ranging from \$2,000 to \$360,000. Over the last three years, the average price has increased to around \$146,000. Only 18 networks in the country zone assigned their licences in 2010/11. The average price was \$1,430 per month (ranging between \$560 per month to \$1,964 per month).

Hire car licences are very rarely transferred in the country zone. Since 2010, only four licences have been transferred. As with metropolitan hire car licences, the value of transfer of VHC licences tends to be close to the price of a new licence issued by the VTD: \$20,000.

⁵ See section 16.4.1

⁶ Population statistics from Department of Planning and Community Development, *Victoria in Future 2008*, accessed 7 April 2012 at www.dpcd.vic.gov.au/home/publications-and-research/urban-and-regional-research/Census-2011/victoria-in-future-2008/victoria-in-future-2008-detailed-data-files

⁷ Licence data provided by VTD

16.2.3. Organisation of country and regional taxi operators

As distinct from metropolitan taxi businesses where around 70 per cent of assignable licences are now assigned,⁸ the majority of regional (country and urban zone) taxi licences are operated by the licence holder. In many instances, the licence holder is also an accredited driver. In the urban and country zones, only 163 licences are assigned out of a total 637 licences that are assignable (26 per cent).⁹ In both country and urban zones, the majority of operators operate less than five licences; however, some operators operate larger numbers (as shown in the table below).

Table 16.2 Taxi licences per operator

Country zone (525 licences)									
No. of licences	1	2	3	4	5	6-10	11-20	21-30	31+
No. of operators	159	43	24	8	5	4	5	5	3
Urban zone (237 licences)									
No. of licences	1	2	3	4	5	6-10	11-20	21-30	31+
No. of operators	118	21	3	3	1	2	2	1	1

Source: VTD

Networks

Operators are required to affiliate with an accredited NSP. In the country zone, many taxi businesses are run by husband and wife teams or families. The size of a country operation is often such that network managers do not have specific training in business management, legal or financial matters.

The inquiry has observed that while networks of more than five operators have adopted computer based dispatch software (such as Smartmove), the majority of country networks record bookings and dispatch manually and use radio or mobile phone to communicate with drivers. GPS-based systems such as Smartmove provide benefits for operators in enabling them to generate reports, including Performance Based Booking reports, which provide another potential revenue stream. However, such systems come at a significant cost, with one operator telling the inquiry their dispatch system costs the business \$36,000 a year to lease.

Larger country networks with multiple operators tend to run their network under a cooperative agreement, with annual affiliation fees also contributing to the running costs of call staff, depot accommodation and dispatch infrastructure (such as radios or computer software). Cooperatives have a set of rules by which all operators abide. Some of the cooperatives that met with the inquiry do not allow for private phone numbers for booking services, insisting that all jobs be allocated through the centralised booking service for equity reasons.

Some of the larger networks elect to contract out their call centre services. This outsourcing often depends upon the time of day; however, in many cases, it is a full time operation. For example, the Geelong taxi network contracts booking and dispatch services for its conventional taxis to Silver Top Taxis, as well as WAT bookings at night. Warrnambool Taxis use the services of the Ballarat call centre on a full time basis given the high infrastructure costs to install software and staff.¹⁰ Shepparton Taxis also use the booking services of Ballarat Taxis. Unlike most other zones, Portland Taxis uses the call centre in Orange, NSW, for dispatch of vehicles. Operators using call centres located outside their zones complained of occasional poor local geographic knowledge by call centre staff and complaints handling errors.

⁸ See chapter 4

⁹ Licence data provided by VTD

¹⁰ Meeting with Warrnambool Taxis, Warrnambool, 15 September 2011

Promotion of networks in regional and country markets is usually through local directories and advertising. Many country and regional operators subscribe to the '131 008' number rather than a specific local number. Expenditure on advertising tends to be higher where competition exists, such as border and multi-operator cities and towns.

Drivers

Operators in country and urban zones generally have between two to four drivers available to drive their taxis. However, retention and recruitment of quality drivers was considered a major problem in both markets. Long wait times for police checks and low remuneration for drivers are considered the main causes of this problem. Most operators consulted by the inquiry suggested the shortage of drivers is the biggest issue facing taxi services in regional Victoria and reported that their applications for police checks took months to be processed – in the meantime, many prospective drivers had moved on to other work.

The majority of drivers in regional areas have grown up in the country and have good knowledge of the local driving environment. The same familiarity extends to their customer base, with many operators and drivers in country towns knowing their customers on a first name basis. Many country operators told the inquiry that the extra service their drivers provide is a point of difference between regional and metropolitan markets. Opening doors for customers, carrying luggage, even carrying groceries into the house and doing banking for customers were given as examples by operators.

Many regional operators, particularly larger networks, document the standards they expect of drivers¹¹ and have processes to address complaints and feedback about drivers. Overall, the inquiry has observed that regional and country markets demonstrate a higher level of accountability to their customers than the metropolitan market, despite reduced regulatory enforcement. One example of this higher accountability is in driver training in the larger regional cities, where operators will 'jockey' with a new driver until they demonstrate the required level of competence to drive by themselves. Country drivers are not required to undertake Driver Accreditation Training; however, this voluntary practice of jockeying appears to have contributed to the higher quality of service provided by drivers in regional areas.

Participants in the inquiry's customer survey were more positive than metropolitan respondents on a range of factors, including feeling safe in taxis and feeling that drivers know where they are going, value the customer highly and care about their wellbeing.¹² Positive feedback about drivers from regional taxi users was also reported to the inquiry in submissions:

*In Mildura and surrounds, I believe we have a high standard of service. At a recent taxi forum, only positive comments came regarding the politeness and helpfulness of the drivers. From the experiences of the participants, drivers have gone out of their way to assist.*¹³

In the inquiry's discussions with regional operators, all operators indicated that they had entered into bailment agreements with their drivers. The nature of the agreement ranged from an informal 'handshake' arrangement through formal 'template' agreements (adopting the Victorian Taxi Association (VTA) and VTD model agreements) to company-specific bailments. Generally, operators indicated that the fare box was split 50:50, with operators paying for insurance, petrol, cleaning of taxis, repairs and taxi equipment and drivers paying for their uniforms. Many operators questioned why some of these costs were borne by them, particularly the Workcover requirement for bailee drivers.¹⁴

Vehicles

Operators in country and urban taxi zones tend to choose between a small number of different model vehicles, with Ford Falcons the clear favourite.

- In the urban zone, Ford Falcons make up almost 75 per cent of the vehicle fleet. Toyota Camrys (six per cent) and Holden Commodores (four per cent) are the main other sedan/station wagon models in use. Across the three urban markets, Toyota Hiaces are mainly used to provide wheelchair accessibility. WATs make up approximately 13 per cent of the urban zone fleet.
- In the country zone, Ford Falcons make up almost 70 per cent of vehicles, with Toyota sedans (eight per cent) and Holden Commodores (six per cent) making up the remainder of sedans/station wagons. The country zone is made up of 144 WATs – almost 20 per cent of the entire country fleet. Vehicles chosen as WATs include Toyota Hiaces, Commuters, Transits and Taragos. There are also 22 Ford Falcons converted for the purposes of wheelchair work.

¹¹ Standards are generally incorporated into driver/operator induction courses or training procedures

¹² Ipsos Social Research Institute (2012), Op.Cit.

¹³ Northern Mallee Primary Car Partnership Transport Connections, Submission to the Taxi Industry Inquiry, SS128, p.1

¹⁴ See chapter 13 for an examination of bailment agreements

A number of operators who met with the inquiry indicated that their 'ideal' vehicle for country use would be one that can seat five passengers, carry a large amount of luggage and has conventional, rather than slide, doors. However, they could not identify a vehicle that offers this flexibility.

Discussions with operators suggested a generally high level of maintenance of vehicles in non-metropolitan zones. This approach is considered more cost effective than having a car breakdown and the lost earnings incurred from the vehicle being off the road. For example, one operator in Horsham has introduced a weekly maintenance regime. A number of operators have mechanical experience themselves and are able to save labour costs by doing their own repairs.

Business structure and viability

The different business structure required for regional taxi operations is raised by the VTA in its submission on regional issues:

The average trip tends to be shorter and there is less formal structured/organised work. Taxis also play a much more central role in the provision of public transport like services. Public transport services can be extended to include community services like school and health transport services. In effect, this means that taxis are vital to the transport infrastructure in regional Victoria.¹⁵

Many operators feel that these different dynamics – and their cost implications – are not acknowledged within the current fare structure or regulatory framework.

A strong theme emerging from submissions and consultations with regional operators is the high input costs involved in running a taxi business in the country. In particular, operators note the high cost of fuel in regional areas. Operators also feel that insurance policies are difficult to obtain and that premiums are unfairly high in regional areas because of the metropolitan-focused attitude of insurance companies. As noted above, a significant cost is also incurred by dead running of vehicles in regional areas as drivers often cover long distances to pick up customers. Other significant costs include vehicle registration, obtaining Roadworthy Certificates, maintaining cars and Workcover costs for bailee drivers.

A number of regional operators feel some regulations are applied unnecessarily to country markets because of a 'one size fits all' approach to regulation. The requirement to paint taxis yellow and the introduction of safety camera requirements were given as examples of 'Melbourne centric' regulation.

Several operators told the inquiry that their operations are running close to a loss and they are considering selling up and leaving the industry. Taxi operators in small towns are particularly anxious about the future, as summed up by one operator:

Low earnings, competition, stress-related illness and unreasonable hours are threatening the very existence of the essential community services we run ... Operators in small towns, where taxis are often the only means of getting around, are on the verge of giving up.¹⁶

The VTA also discussed the demise of taxis in small country towns in its regional services submission, noting that hire cars are starting to operate in these towns on the basis of lower cost. For operators of taxis in these towns, a reliance on contract work, difficulties in sourcing reliable drivers and accreditation and licence compliance costs have forced some to leave or consider leaving the industry. The VTA comments that the effects on these towns will be devastating as antisocial behaviour and illegal practices tend to increase as people have less access to public transport. To address this concern, the VTA recommends government support of taxis in towns of less than 1,500 people.¹⁷

¹⁵ VTA, Victorian Regional Taxi Services, Submission to the Taxi Industry Inquiry, SS60A, p.8

¹⁶ Hans Zonneveldt, Submission to the Taxi Industry Inquiry, SS 232, p.1
¹⁷ VTA, Victorian Regional Taxi Services, Op.Cit. p.9

Case study

Mornington Peninsula

The Mornington Peninsula Shire has a population of approximately 140,000 residents and an area of 720 square kilometres. It is a diverse municipality with a mixture of urban areas, resort towns, tourist developments, rural land and parkland. As an attractive area for retirees, the Peninsula is expected to record significant growth in older residents. The local council has predicted 30 per cent growth in residents aged 60 and over between 2006 and 2016.¹⁸

The region is mostly served by Peninsula Radio Taxis, which coordinates the operation of 32 vehicles, including six WATs. Ten of these taxis are in the Western Port zone and 22 are in the Port Phillip zone. This equates to one taxi for every 4,500 people.

Other transport services in the area include the Stony Point train line and nine bus routes, only five of which operate with a regular frequency.

Submissions to the inquiry report long wait times to access taxis in the Mornington Peninsula, especially on Friday and Saturday nights. The Mornington Peninsula Shire Council raises concerns around security late at night, temptations to drink and drive, and burdens on others in the community to pick up friends and relatives.¹⁹ Over the past six months, the impact of poor availability of taxis on community safety has been noted by local police in the media.²⁰ The council also raises affordability as a major issue for residents needing to access services in towns that are long distances apart.

The geographic spread of towns in the area makes delivery of taxi services difficult. Services accessed by residents are often outside the Peninsula Zone, which means considerable 'dead running' by taxis back from Frankston and Melbourne.

There have been very few licences released to the Mornington Peninsula in the last 10 years, despite the area's rapid population growth. A submission from Peninsula Taxis notes that, despite numerous requests to the VTD, the company was last allocated three licences a decade ago. Today, the operator says it is "constantly struggling to service the public", noting:

We regularly have 1-2 hour waits during daytime hours, and up to 3-4 hour waits at peak weekend periods. These waits only get worse during our busy summer tourist period.²¹

The taxi shortage in Mornington Peninsula is particularly difficult for passengers requiring WAT vehicles, with waits of four hours reported. Between 2006 and 2011, only one application for a country licence in the Mornington Peninsula was made to the VTD. This application was rejected in December 2011. Also in December 2011, the VTD closed applications for the tender of one WAT licence for the Port Phillip zone. The 10 year fixed term licence replaces one that had been surrendered and so is not a net increase to the fleet.

16.2.4. Organisation of country and regional hire car operations

Hire cars are the only form of public transport in some parts of regional Victoria and services are often established in areas or towns where there are no taxis operating. In these areas, hire cars often perform a similar role to taxis: for example, anecdotal evidence to the inquiry suggests that hire car companies operate late night 'pub-to-home' shuttles in some country towns.²²

Country hire operators generally operate more than one licence and, in most cases, operate a mix of licence types: VHC, SV and RH. Not all licences are actively used, depending upon the vehicle fleet at the operator's disposal and the demand for particular services. Country operators tend to service large areas due to the small number of operators distributed widely across regional Victoria.

Figure 16.2 shows the distribution of hire cars in regional Victoria, indicating that larger fleets (four or more vehicles) are found mainly near large regional centres and close to the outskirts of Melbourne. Table 16.3 shows the number of CH licences owned by country operators. The majority of operators hold just one CH licence, which is usually supplemented with one or more SV or RH licences.

18 Mornington Peninsula Shire Council website, accessed 3 April 2012 at www.mornpen.vic.gov.au/Files/Social_KeyForecastStats_Demographics.pdf

19 Mornington Peninsula Shire Council, Submission to the Taxi Industry Inquiry, SS171, p.1-2

20 Mornington Peninsula Leader, 'Long Wait Taxing', 2 August 2011, p.1

21 Peninsula Taxis, Submission to the Taxi Industry Inquiry, SS238, p.1

22 Based on information provided to the Taxi Industry Inquiry by the VTD

Figure 16.3 Distribution of regional hire car networks



Source: VTD

Table 16.3 Hire car licences per operator

Hire cars operators (CH) (70 licences)					
No. of licences	1	2	3	4	>4
No. of operators	43	7	3	1	0

Drivers

Hire car operators are usually the primary drivers of their own vehicles and are flexible in the work hours they operate. Where there are multiple bookings or other commitments, operators often have a number of drivers they can call on for part-time work. Drivers of hire cars in country markets are usually paid by the hour, with wages varying from \$18 to \$25 per hour. Some operators set a minimum number of hours per shift, referring to a ‘Chauffeur Award’. Operators discussed with the inquiry the importance of retaining quality drivers, not only for maintaining a high standard of customer service in a relatively small market, but also in terms of entrusting them to drive a luxury model vehicle.

Vehicles

Hire car vehicles with VHC registration in the country market fall mainly into two categories of vehicle: Ford Fairlane (approximately 60 per cent) and Holden Statesman or Caprice (30 per cent). The data provided to the inquiry on hire cars makes it difficult to distinguish which SV and RH licences are based outside of the metropolitan zone. The majority of these vehicles are used for wedding purposes and tours, suggesting that a combination of stretch limousines, vintage vehicles, long wheelbase sedans and four wheel drives are likely to be operating outside of Melbourne. The country operators who met with the inquiry had a combination of SV and VHC licences to service the wedding industry, but also to undertake other pre-booked work such as airport drop-offs.

Operators

Country operators promote themselves in local media, online and in directories, such as wedding websites and forums. Operators told the inquiry that the public does not understand the licence classification of hire cars, particularly in regional areas, with customers often asking hire car drivers to run their SV licences outside of weddings and tours. Operators are of a size where dispatch software or radios are not required and contact between customer, operator and driver is via mobile phone or landline.

Operators who met with the inquiry expressed concerns about the lack of enforcement of regulations by the VTD and inadequate follow up when complaints are made. These operators believe illegal hire car operators are working in their areas but are powerless to do anything about them.

16.2.5. Demand for taxi and hire car services

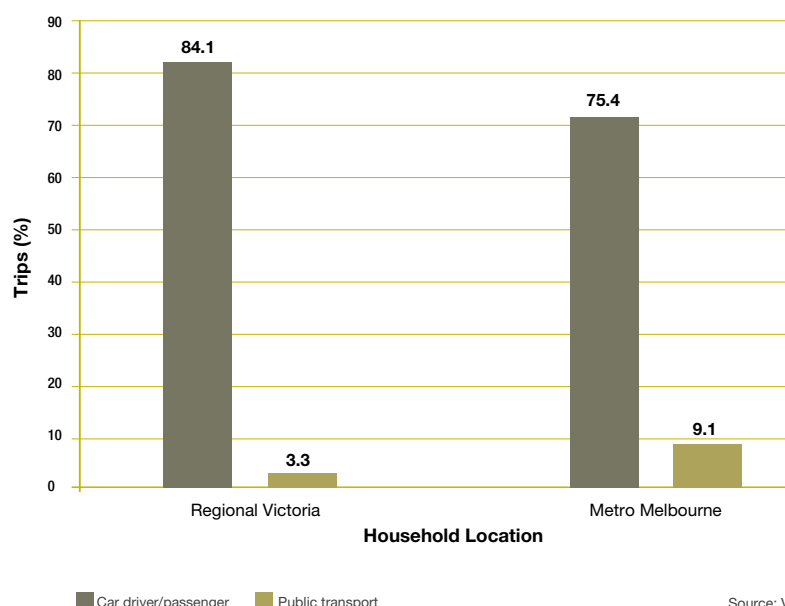
Demand for taxi services

The 2006 Country Taxi Review conducted extensive surveys of taxi operators to better understand demand in these markets. The inquiry has sought to validate and update the review's findings through consultations and surveys of operators and user groups.

The country and regional market demand for taxis differs greatly to the metropolitan market. In regional areas, taxis service a largely 'private and social' travel demand segment, as distinct from the 'corporate' and 'tourist' markets.²³ Travel in this segment comprises travel to homes, clubs/hotels/pubs, doctors, other transport modes, work and social visits.²⁴ Feedback from operators suggests that the major demographic during the day tend to be elderly passengers (up to 80 per cent) accessing social and health services, while at night passengers tend to be younger people returning home from hotels and pubs.

High levels of car ownership and use in regional areas have a significant effect on the demand for taxi and hire car services. The comparatively high use of private vehicle and low use of public transport in travel to work is shown in the figure below. The inquiry's user survey supports these findings, with respondents from regional areas more likely to cite 'use of private transport' and less likely to cite 'cost' as the reason they don't use taxis more often.²⁵

Figure 16.4 Weekday percentage of trips by mode, regional Victoria and metropolitan Melbourne



Source: VISTA (2007)

²³ However, the tourist segment has a major impact in some regions and towns, where spikes in demand over summer (such as in Lakes Entrance and Lorne) and winter (such as in Bright) have a significant impact on taxi businesses

²⁴ Country Taxi Industry Review Working Group (May 2006), Op.Cit.

²⁵ Ipsos Social Research Institute (2012), Op.Cit.

Country and urban zone taxis provide an important transport service in communities where public transport is limited or not available. In the absence of publicly funded services, many operators see their businesses as providing a community service not dissimilar to that played by a bus company. Operators and user groups highlighted the importance of country taxis in connecting remote communities to important services such as shopping, banking and community events. However, for people living in remote areas, the cost of a taxi is often too expensive to be a regular service option. This issue is highlighted by Buloke Shire Council in its submission:

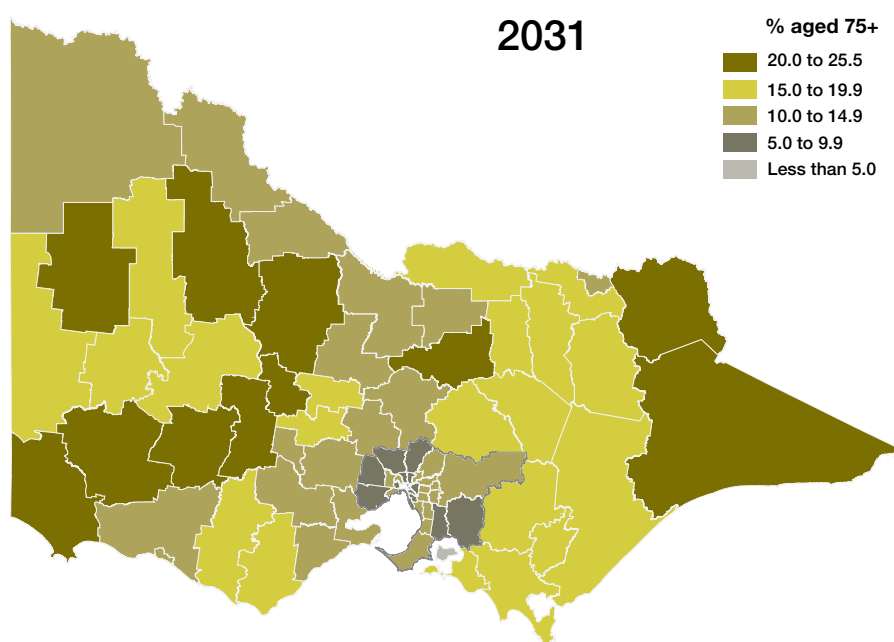
There is no doubt that the distance between towns adds further barriers to taxi services being provided in Buloke. The cost of a taxi trip in the Buloke setting may be beyond both the operator and the passenger.²⁶

Instead, community transport options tend to service this demand with funding provided through local government, health bodies and other non-profit organisations. Larger towns may have a high number of community transport buses and cars available for different groups. During the inquiry's Shepparton Regional Forum, one participant reported that a recent audit showed Shepparton has 61 community vehicles with up to 50 available at certain times. Ms Sandra Love from the Corangamite Shire Council Community Transport Project noted the importance of community transport in filling a 'taxi void' and providing social inclusion and food security.²⁷

Wellington Shire provided a case study of a resident required to use taxi services for her dialysis treatment in Sale, 37km from her home.²⁸ 'Mary' travels 222km each week for three return journeys. Full price for each return trip is approximately \$126. Her Multi Purpose Taxi Program (MPTP) card entitles her to a 50 per cent subsidy, but the cost of travel is still \$200 per week. The Shire notes this has a huge impact on Mary's quality of life, with little money left over for basic expenses.

As noted above, aged and frail passengers comprise a substantial part of the country and regional taxi market, either through short fare trips within towns or through more formal contract arrangements with government bodies such as the Commonwealth Department of Veterans Affairs (DVA). This demand is likely to increase as many regions experience sustained growth in their elderly populations over the next two decades (as illustrated in Figure 16.5). In some places, this growth stems from retirees moving to 'sea change' or 'tree change' locations; in other places, especially remote areas, local populations are ageing as younger residents move away for employment and education.

Figure 16.5 Estimated proportion aged 75 years and over by 2031 (by Local Government Area)



Source: DSE (2005)

26 Buloke Shire Council, Submission to the Taxi Industry Inquiry, SS154a, p.12

27 Meeting with Sandra Love, Warrnambool, 16 September 2011

28 Wellington Shire Council, Information for the Taxi Industry Inquiry, October 2011, p.2

In its *Regional Matters* report, the Department of Sustainability and Environment discusses the decline in the relative proportion of working age to 'dependent' people within regional communities, noting that the provision of transport services, such as taxis and community buses, will be affected by this demographic shift.²⁹ This observation is echoed in submissions to the inquiry from regional councils concerned about maintaining an ageing population's access to essential services. As Buloke Shire Council notes:

*The costs of owning and running a (private) vehicle may become prohibitive for many people. As more and more services become centralised in larger urban areas, the ability to access those services needs to be addressed.*³⁰

Operators report that the busiest periods during the week are Saturday night and Sunday morning, with high demand from people returning home from pubs, clubs and restaurants. Larger towns, particularly those with universities, also experience late night demand on Thursdays and Fridays. Daytime demand is higher later in the working week, with journeys for shopping and medical appointments for mainly elderly customers commonplace.³¹ Of these trips, approximately 80 per cent tend to be within town limits,³² meaning short fares (less than \$10) are common.

The Country Taxi Review and the inquiry's operator consultations highlight the importance of fixed contract work in a regional market. The main contract work undertaken by operators is to service Commonwealth and Victorian Government departments, health agencies, local hospitals and aged care facilities, and V/Line. In many cases, these contracts are for longer journeys, such as taking customers to medical appointments in larger towns and bringing schoolchildren to school from remote communities. Operators discussed the importance of contracts in being able to plan their weekly operations and having a fixed income. A number of smaller operators (with less than five vehicles) suggested that the loss of their fixed contract work would end their businesses. Operators also discussed the sometimes complex nature of tendering for contract work and the difficulty in competing with other service providers, notably hire cars and community transport.

Many regional taxi operators who met with the inquiry say they are struggling to survive as a result of competition from public transport buses and community transport. Operators believe it is unfair that bus companies are subsidised to provide fixed route services while taxis perform a community role with little compensation. Operators cite regulations that require them to provide a continuous service and mandatory requirements in relation to their vehicles as significant costs to their businesses, while bus routes provided by the Victorian Government are subsidised regardless of their patronage. One submission notes:

*Looking at 50 seat public transport buses drive around with 2 people on board ... is frustrating.*³³

A large number of operators and the VTA also note the growing use of community transport in regional areas to provide services that were once provided by taxis, such as patient transport, social outings and trips to access services in regional centres. Community transport is often supported by funding from local councils and a highly organised pool of volunteer drivers. The VTA has recommended that a driver and operator accreditation scheme also be applied to non-private transport services.³⁴

Demand for hire car services

Country hire car operators tailor their services to a different demand segment than taxis, catering mainly for the wedding and tour segments. Other hire car work involves drop offs at local airports, trips to Melbourne and Melbourne Airport, debutante balls, winery and food tours, trips to the snowfields and special events such as racing carnivals. Work is concentrated on weekends and later in the working week; however, some corporate travel demand (such as pick-ups from regional airports) is also serviced during the week.

In 2004, the Essential Services Commission commented on the potential for hire car services in regional areas:

29 Department of Sustainability and Environment (2005), *Regional Matters: An atlas of regional Victoria*, Victorian Government, Melbourne, p.14, accessed 2 April 2012 at www.dpcd.vic.gov.au/___data/assets/pdf_file/0003/31287/Changing_age_structure.pdf

30 Buloke Shire Council, Submission to the Taxi Industry Inquiry, SS134, p.2

31 Booz Allen Hamilton (February 2006), *Country Taxi Review Case Study Interviews – Summary Findings*, Victorian Taxi and Tow Truck Directorate

32 Ibid. Also inquiry discussions with drivers

33 Peter Erwin, Submission to the Taxi Industry Inquiry, SS20a, p.1

34 The interaction between taxis and community transport is discussed in further detail in chapter 19

The larger relative size of the pre-booked market segment in non-metropolitan areas would otherwise be expected to enhance hire cars' ability to compete with taxis. This experience in country areas appears to indicate both that hire cars are economically able to compete directly with taxis and that some elements of the industry are moving toward serving this wider 'non-premium' market. This suggests the possibility of a significant further expansion in the market for hire car services over time.³⁵

However, despite the substitutable nature of these pre-booked services, most regional hire car operators express no desire to 'step on the toes' of local taxi operators. Noting the high costs to prepare a hire car and the expense associated with having a driver available, operators generally do not consider 'ready to ride' pre-booked services and short trip services viable operations in the hire car market, which they see as being tailored more towards the luxury end of the market. Servicing late night crowds was considered to involve too high a risk of damage to their vehicles.

16.3. Regulation in country and regional markets

While the regulatory frameworks for taxis and hire cars are largely the same across Victoria, some regulatory differences exist between regional taxi and hire car markets and the Melbourne market. In addition, a number of regulations impede entry to the industry in regional areas, restricting competition within the taxi industry and between taxis, hire cars and buses.

16.3.1. Regional taxi regulation

Regional taxi operators have told the inquiry they are dissatisfied with the high costs imposed on their businesses by the current regulatory framework, what they perceive as a poor application of the regulations in a regional context and an inadequate and inappropriate fare structure.

Regulatory differences

Regional markets are subject to slightly less stringent regulation than metropolitan markets:

- Vehicle quality – In the country and urban zones, conventional taxi vehicles are required to be no older than 7.5 years (compared to the metropolitan requirement of 6.5 years) and the maximum vehicle entry age of 2.5 years only applies to the metropolitan, outer suburban and urban zones.³⁶
- Emergency warning systems – Country taxis must have a base radio system or device that causes a horn to sound intermittently when operated, as opposed to the metropolitan and outer suburban requirement to have a base radio emergency warning device.³⁷
- Safety and security – Country taxis are exempt from fitting a VTD-approved taxi security camera system. From 1 July 2012, safety cameras will be compulsory in country taxi zones serviced by 10 or more taxis.³⁸ Driver protection screens are mandatory in metropolitan, outer suburban and urban zones, but not in the country zone.
- Driver accreditation – Unlike driver accreditation for the metropolitan zone, an Independent Driving Assessment (if licensed for less than 12 months) and Driver Accreditation Training are not required in the country and urban zones.³⁹

Entry and competition

The nature of zoning, and zones within zones, provides a high level of protection for regional taxi licence holders from competition from other service providers. Regional taxi licences are issued either into a designated zone or are permitted to ply for trade within a set radius of the local post office. Most country licence conditions only allow taxis to conduct hail and rank work within a set radius of a local post office. Pre-booked work can be conducted outside this area, except for jobs wholly within the metropolitan and outer suburban zones.

35 Essential Services Commission (2004b), Op. Cit., p.32

36 VicRoads (December 2005), Vehicle Standards Information 31: Licensed Passenger Vehicle Standards – Taxis, p.10

37 Ibid., p.7

38 See chapter 17

39 See chapter 13 for details of driver accreditation requirements

Regional operators are also protected from competition under the ‘public interest test’ set out in section 143 of the *Transport Compliance and Miscellaneous Act 1983*. As noted in chapter 10, the application of this test in regional markets does little to enhance service performance. Instead, the test works in conjunction with zoning restrictions to stifle competition and maintain the viability of existing operators, irrespective of whether or not they are providing efficient, quality services to customers.⁴⁰

Fares

Fares are slightly higher in regional markets. As set out in chapter 5, the country zone flagfall of \$3.30 is 10 cents higher than the flagfall for the other three zones, while the distance and time tariffs are slightly higher for country and urban zones than for the metropolitan and outer suburban zones.⁴¹

The schedule of hiring rates for country taxi licences also allows for hirings beyond an 80km radius of the principal post office to be a pre-agreed fare with the hirer. Permanent bookings or contract hirings within the 80km may be less than the metered rate provided both the hirer and driver agree.

Most regional taxi operators who met with the inquiry called for a fare increase, noting the length of time since the last fare increase and increasing costs to their businesses in that time. One submission states:

“A fare increase would also keep conscientious owners like ourselves in the industry that we are passionate about. However, at today’s return we are ready to walk away from the industry as we are working approximately 120 to 140 hours/week for no more than we could earn working a forty hour week for someone else.”⁴²

Some operators note that a steep rise in fares may have an impact on demand as many regional taxi users already consider taxi services quite expensive. Other operators suggest a more strategic approach, such as reducing the fare rate during the middle of the day when elderly passengers (mainly pensioners) use taxis, increasing to a higher tariff in the evening and then charging a higher late night tariff when demand is greatest. These operators believe this will help to grow demand during the day.

While operators favour changes to the fare settings, they do not endorse a deregulated fare structure that empowers the network or operator to set fares. Operators suggest this will lead to undercutting of fares by their competitors without significant consumer benefits.

The VTA suggests a specific fare-setting model for regional areas that takes into account the particular costs associated with the geographic location of the business.⁴³

Other regulatory issues

A number of other regulations have an impact on country and regional taxi operators:

- The *Bus Services Act 1995* and *Bus Safety Act 2009* have an impact on the ability of a taxi to perform fixed route-type services.
- The *Transport (Taxi-Cabs) Regulations 2005* specify that a taxi not be operated unless the taxi is painted ‘Victoria Taxi Yellow’.
- Taxi operators are prohibited from advertising on their vehicles.
- Licence conditions require that taxis are available for service on a continuous basis. Some operators have interpreted this to mean that a taxi licence must provide a 24-hour/seven days a week service to the area in which it is approved to operate.⁴⁴
- MPTP eligibility, funding and requirements apply uniformly across the state.

16.3.2. Regional hire car regulation

Hire car regulation is very similar statewide, with a few notable exceptions. There are two zones: a metropolitan hire car licence zone (shown in Figure 16.6) and a country hire car zone (the rest of the state beyond the metro zone). VHC licences can only be operated from an operational address outside the metropolitan zone, while VHA/B licences must be operated from an address inside the zone. SV and RH licences can operate throughout Victoria.

While licence conditions for metropolitan hire cars require that they operate primarily from the address specified, the conditions do not preclude the operator working wholly outside the metropolitan zone. However, country hire operators cannot complete a job that is wholly within the metropolitan zone.

40 See section 10.2.2 and section 16.4.1 below. These same issues also apply to the regional hire car market

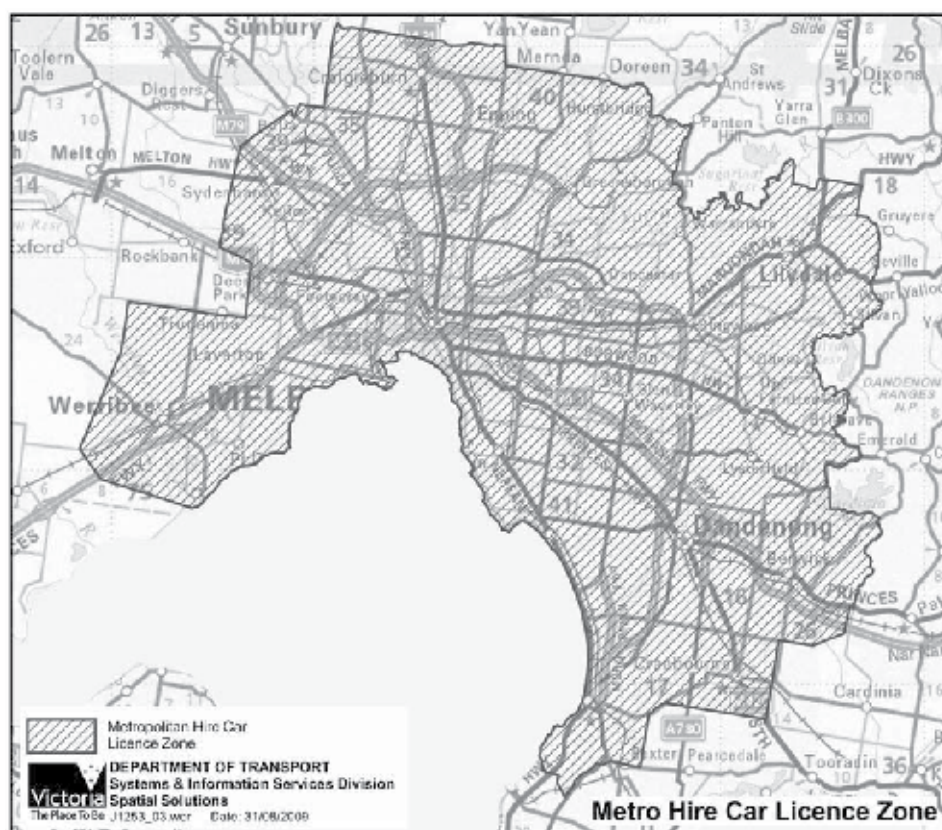
41 See chapter 5 for tariff details across all zones

42 Max and Leanne Hood (Horsham Taxi Service), Submission to the Taxi Industry Inquiry, SS261, p.1

43 VTA, Victorian Regional Taxi Services, Op.Cit., p.8

44 Ibid.

Figure 16.6 Metropolitan hire car licence zone



Source: DOT

As with taxis, the age restrictions for hire car vehicles operating in the country zone are less stringent than for the metropolitan zone, as shown in the table below.

Table 16.4 Hire car age requirements by zone

Approved Vehicles	Maximum age of vehicles licensed as a hire car (years from date of manufacture)	
	Metropolitan hire plates	Country hire plates
Imported high end luxury vehicles	25	25
Imported luxury vehicles <i>with wheelbase of 3100mm or longer</i>	15	17
Imported luxury vehicles <i>with wheelbase between 2800mm and 3099mm</i>	10	12
Stretched limousine-type vehicles	25	25
Luxury vehicles		
Ford LTD and Holden Caprice	7	10
Ford Fairlane, Holden Statesman and Chrysler 300C	5	8
People Mover Type vehicles	5	8
Hybrid vehicles (not included in any category above)	5	8

Fare conditions and requirements for recording bookings are the same for country and metropolitan operators.

16.4. Regulation, performance and reform

Regulations, licence conditions and the directives of the regulator contain a number of provisions that apply an unnecessary regulatory burden on regional operators and restrict entry, competition and innovation in the regional taxi and hire car markets. These impositions on incumbent operators, along with the prevention of new entrants, have led to stagnant industry growth and poorer outcomes for consumers.

The inquiry has examined the impact of these provisions on the industry's performance in country and regional markets to identify where reform is required.

16.4.1. Impact of the public interest test

As discussed in chapter 10, the application of the public interest test for country taxi and hire car licences has led to a very modest growth in new taxi licences for non-metropolitan zones and has not kept pace with a strongly growing regional population. Across regional Victoria, many local councils, businesses, community groups and taxi and hire car operators see the effect of public interest as denying regional communities additional services they badly need.⁴⁵

The nature of taxi networks in regional Victoria further affects any new supply of licences to regional markets. Networks are often operated as cooperative arrangements, with all taxi operators in the town having a financial stake in the network. These arrangements provide few incentives for networks to add new licences at the risk of reducing the profits of incumbents. These networks are also an important stakeholder in the application of the public interest test for both taxi and hire car licences. The inquiry is aware of circumstances where incumbent operators have been influential in the rejection of a new applicant's licence.

A number of submissions point to poor service availability in regional areas. For example, submissions from hospitality providers in the Dandenong Ranges and Bellarine Peninsula report difficulty in getting taxis on weekends due to the low number of taxis servicing a large area. These businesses say that, while their relationship with local taxi operators is good, there are simply not enough taxis servicing these areas. Submissions note the negative impact on the region's hospitality industry, as well as the risk that people will choose to drink and drive rather than wait for a taxi.

In their joint submission, VECCL, VTIC and VEIC observe that some regional tourism destinations are affected by insufficient taxi services during peak periods of high visitor numbers. This has a negative impact on regional events businesses, particularly wedding and function venues, and on the regional tourism industry more broadly. The submission comments:

Business events including conferences, trade shows and meetings represent an important growth sector in Victoria. Business travellers are particularly reliant on an efficient taxi service to ensure they are able to go about their business in a timely and professional manner. The business and conferencing sector is especially important for regional tourism destinations as it helps to fill mid-week vacancies and brings in high yield patrons.⁴⁶

Submissions from local councils in East Gippsland, Golden Plains and Cardinia Shires also discuss the poor availability of taxis servicing country areas and the importance of these services to communities with limited public transport services. A survey conducted by Golden Plains Shire Council found that 35.1 per cent of respondents were not satisfied with their household's ability to access a taxi (29.1 per cent were satisfied and 35.8 per cent were unsure).⁴⁷ While many of these issues are also a product of the zoning restrictions, particularly for communities near metropolitan Melbourne, councils feel they are also a consequence of the public interest test restriction that makes new entry very difficult.

Shortages of taxis are also reported in a number of coastal communities, particularly during holiday periods. These shortages seem particularly acute on the Mornington Peninsula (see case study).

⁴⁵ Section 10.2.2 discusses the application and effects of the public interest test in more detail

⁴⁶ VECCL, VTIC and VEIC, Submission to Taxi Industry Inquiry, SS182, p.1

⁴⁷ Golden Plains Shire Council, Submission to the Taxi Industry Inquiry, SS89, p.4

Late night availability of taxi services is a particular concern in many parts of regional Victoria. Some country towns (such as Traralgon) seek support from nearby operators to cover particularly high demand periods. Safety ranks are used in larger towns to move large groups more efficiently. Some towns operate minivans and buses to service their communities (see Shepparton and Ballarat case studies), while some regional businesses, such as hotels and restaurants, also provide 'hospitality' minivans and shuttle services. Again, local councils and others believe that the public interest test acts as a major barrier to the development of services to meet this demand.

The test is also seen as having an impact on the accessibility of services in country and regional markets. The inquiry received submissions from councils and disability service providers questioning why taxis cannot provide a greater role in addressing transport disadvantage. One submission notes:

Residents need transport solutions not only within the municipality for access to retail, education, health and recreation facilities, but also for trips to larger centres that can often be more than two hours distant from the municipality.⁴⁸

While cost pressures are a significant component of this demand, the inquiry believes the easing of restrictions on taxi and hire car entry will open up opportunities to provide greater access to point-to-point services in regional areas. The opening up of markets to competition may encourage licence holders and operators to be more proactive in seeking out jobs in this segment, either through flexible 'taxi bus' type services or through opportunities funded by government. These options are explored in chapter 19.

Inquiry finding

→ The application of the 'public interest test', which attempts to assess the 'need' for a taxi licence, does nothing to enhance service performance for users in country markets where alternative public transport options are also often severely constrained. It appears that user demands are frequently not met because new applicants for licences are discouraged from applying for licences or are unduly restricted in doing so. The public interest test works in conjunction with zoning restrictions to restrict competition and maintain the viability of existing operators, whether or not they are providing efficient services to customers.

48 Buloke Shire Council, Op. Cit., p.3

Case study

Regional late night bus services

Shepparton Street Rider Bus

The Street Rider Bus was developed through a partnership between Shepparton City Council and Victoria Police in 2008 to address drink driving within the local area, late night assaults and disorderly behaviour. The bus service operates Sunday mornings between 1am and 5am delivering people to their homes in Shepparton, Kialla and Mooroopna for a gold coin donation.

Customers are picked up from four designated points in town. The bus cannot be hailed or booked in advance. Local licensed establishments sponsor the security guard who rides the bus, while the bus itself is donated for use by the Office of Corrections and Berry Street. Local volunteers drive the bus.

Ballarat Special Events Bus Service

A 'party bus' runs between Ballarat and Bunninyong between 11pm and 5am Tuesday to Sunday. Two buses are used to pick up passengers from existing bus stops. Passengers are charged \$15 for a one-way ticket, with credit card and EFTPOS facilities available on board. Security and water bottles are also provided.

The project has the support of the Department of Transport, local bus company Davis Bus Lines and the Victoria Police.

The service was introduced to address long queues at the Ballarat Safe City Taxi Rank.

16.4.2. Impact of zoning

Taxi zones

Taxi licence conditions ensure that country and regional markets operate in small zones, within which there is little or no competition between taxi services located in different towns. While the inquiry has heard complaints from some operators about encroachment by nearby operators into their zones, it is not considered a major issue. In some instances, as noted above, it has been encouraged as a means of meeting late night demand.

As discussed in chapter 10, zoning is a major concern for residents living on the edge of urban and metropolitan zones. The inquiry heard from several businesses and local councils whose clients and residents were unable to access a reliable taxi service despite being near the metropolitan zone. For example, the Dandenongs and Bellarine Peninsula experience high demand for taxi services on weekends and during peak tourist periods; however, the smaller taxi fleets in these areas cannot service this demand and nearby metropolitan and urban zone taxis are unable to conduct rank and hail work outside their zones.⁴⁹ One submission observes that it is not uncommon for guests at events or functions in these areas to decide to drive themselves home while under the influence of alcohol, having grown tired of waiting for a taxi.

These zone 'border' issues are raised by Cardinia Shire in its submission to the inquiry. Most of Cardinia Shire's residents live within the country zone, but access services in adjacent municipalities located in the metropolitan zone. The zoning restrictions on taxis "result in passengers being refused travel in both directions and reduces the number of trips made by taxis, compounding the poor viability of operating a taxi service in this large area".⁵⁰ Such inefficiencies also limit the services available to residents. The council recommends more flexible arrangements for country operators and a realignment of the metropolitan zone with the Melbourne Urban Growth Boundary.

Another consequence of zoning is the large number of NSPs operating across regional Victoria. At the end of March 2012, the number of regional NSPs stood at 82. Most country towns have their own booking services; however, some operators have contracted these services out to a third party. While many operators observe that a familiar voice and local knowledge are important attributes of a local booking service, there appear to be potential efficiencies in the rationalising of booking services to a regional level – where three or four towns contract to one booking service. Advances in GPS mapping and booking technology offer a possible tool to facilitate these developments.

⁴⁹ See for example submissions to the Taxi Industry Inquiry from Big 4 Beacon Resort (SS40) and Penny Forrest (SS391)

⁵⁰ Cardinia Shire Council, Submission to the Taxi Industry Inquiry, SS183, p.2

Hire car zones

Many regionally based hire car operators raised concerns with the inquiry about the current 'two tier' zoning system that prevents them from completing jobs that are wholly within the Melbourne metropolitan hire car zone while metropolitan operators can operate anywhere in Victoria.⁵¹

The inquiry notes that the current licence zoning conditions appear to have evolved somewhat arbitrarily. Prior to 1996/1997, MH licences applied only to hire cars with an operational address within a 50km radius of the Melbourne GPO.⁵² In 1996/1997, holders of CH licences with an operational address between 50km and 110km from Melbourne were given the option of nominating for either metropolitan or country operation rights and the respective number plates were issued to these vehicles. This means that, within the 50km to 110km band, there was a mix of MH and CH licences.

In 2009, the VTD determined the new metropolitan hire car zone boundary would be the same as the greater metropolitan Melbourne taxi zone boundary. The Minister for Public Transport declared a new fee for country hire cars, set at \$22,550 (including GST), thus lifting an effective embargo on country licences that had existed since 2002.

CH licence holders who responded to the inquiry were unanimous in seeing the zoning system as disadvantaging them and reducing their earning capacity. These operators could see little justification for the zoning distinction between MH and CH licences, as summed up in the submission from the Victorian Country Limousine Association (VCLA):

“We need to ask the question – Is there any real reason why all Victorian Hire Car Licensing should not be statewide for ALL operators, not just for those who happen to reside in the area the VTD has designated as Metropolitan Melbourne?”⁵³

The VCLA has also called for a single statewide licence price for all hire cars.

Inquiry findings

- Taxi zones are intimately linked to entry restrictions and the value of taxi licences.
- Zoning restrictions have a negative impact on the operation and viability of taxi and hire car businesses, particularly in those areas where country zones run adjacent to metropolitan or outer suburban zones. Zones can create inefficiencies through long dead running times, which can deter metropolitan networks from servicing pre-booked jobs out of zone.

⁵¹ However, it should be noted that CH licence fees are considerably lower than MH licence fees, and that MH licence holders effectively pay a premium for more extensive operating rights

⁵² Essential Services Commission (2004b), Op. Cit., p.16

⁵³ VCLA, Op.Cit., p.1

Case study

Traralgon licence conditions

In 2007, vehicles licensed to operate from the Gippsland towns of Traralgon, Morwell and Churchill were issued with a licence variation. The new licence conditions included that vehicles could operate from places within a 4.8km radius of their respective post offices and the area within parallel lines drawn between the outer circumferences of each of the three radii. If pre-booked, the vehicle could operate from an approved depot to any place within Victoria (except for a job wholly within the metropolitan and outer suburban taxi zones).

The conditions also allowed for Morwell and Churchill taxis to stand at ranks in Traralgon between midnight and 8am on Sunday mornings and special events, provided that Traralgon Taxis has first contacted the other taxi depots to nominate the taxis required and hours of operation.

Taxis from these towns are also permitted to ply for hire within a 4.8 km radius of the Moe Post Office and to stand on taxi zones in Moe between the hours of 4.00pm and 11.00pm on Moe Cup Day.

These licence conditions operating in central Gippsland demonstrate clearly the complexity introduced by a system of different zones and conditions in country Victoria.

An application for two new WAT licences in Traralgon in 2011 also highlighted the shortages of taxis in the central Gippsland region. The last licence issue to any of the three towns occurred in March 2001: a WAT to Traralgon. Between 2001 and 2006, the population in the three towns and their surrounding hinterlands increased by five per cent, with significant population growth in the 55+ age category. The ratio of WAT vehicles to wheelchair MPTP members in this region is also low – at 63 members per WAT (compared with 47.8 persons in Shepparton and 28.6 persons in Horsham).⁵⁴

16.4.3. Livery

As discussed in chapter 10, the uniform livery requirement for taxis has a number of implications for competition between taxi companies. The requirement is a particular concern for regionally-based taxi operators, almost all of whom raised the issue with the inquiry.

While evidence is limited, country operators argue that they incur higher costs than their Melbourne-based counterparts in having their vehicles sprayed yellow in their local towns. While operators can have their cars painted in Melbourne at a lower cost, most believe the quality is inferior to local spraypainting firms and that the additional off-road travel time involved in using a Melbourne firm makes the costs similar. Many operators also want to be seen to be supporting other local firms.

When asked for the cost of spraying a taxi yellow in the country, the majority of regional operators consulted by the inquiry nominated a figure between \$3,000 and \$3,500. If the cost of \$3,000 is applied to the entire country fleet, the current burden of this regulatory requirement to operators in regional Victoria is around \$1.9 million. Further costs are incurred through the requirement for added exterior parts (replaced due to accidents) to be painted yellow, with one operator commenting that it costs around \$200 to have a bumper bar sprayed yellow.⁵⁵

The VTA advocates the removal of the yellow taxi requirement for regional operators, arguing that any benefits that may accrue to the Melbourne industry do not translate to a regional business or community as the lack of traffic density does not provide any visibility advantages.⁵⁶

⁵⁴ Information in this box is derived from a briefing note from the Victorian Taxi Directorate (2011), Application for two country wheelchair accessible taxi licences (to operate from Traralgon), 9 August 2011, provided to the Taxi Industry Inquiry

⁵⁵ Information provided to the inquiry by Greg Ackling (Lakes Entrance Taxis) via the inquiry's 1800 number, 20 December 2011

⁵⁶ VTA, Victorian Regional Taxi Services, Op. Cit., p.10

During the inquiry's regional consultations, several operators questioned why such costs are not covered by government given that the uniform colour is a regulatory requirement. The option to have a white colour vehicle with distinctive markings was favoured by those regional operators who met with the inquiry. The relaxation of the uniform livery requirement was also put forward during the 2006 Country Taxi Review where a survey of operators of more than one vehicle identified the requirement to paint cars yellow as one of the regulations having the greatest impact on their viability.⁵⁷

While most regional operators favour the removal of the yellow paint requirement, a number of operators see the common colour as a distinguishing and professional look. This view was also held by the 2006 Country Taxi Industry Review Working Group, which did not recommend a change to the uniform livery requirement and concluded:

...the Working Group has not seen a compelling reason for change. In most cases the potential financial benefit to operators are modest. On the other hand the Working Group supports the principal of presenting a uniform taxi brand across the state and ensuring that all vehicles comply with minimum standards for comfort and safety.⁵⁸

The inquiry disagrees with the assessment that only a modest financial benefit can be achieved by removing the uniform livery restriction, especially for regional operators. The removal of a uniform taxi colour will not only reduce the upfront costs of putting a new taxi vehicle on the road but also allow operators to brand their fleets distinctively, enhancing their potential to compete in new taxi markets or existing hire car and community transport markets.

The inquiry also considers that some regional cities and towns may prefer to maintain a distinctive uniform taxi livery for tourism or other purposes and sees no reason not to allow this.

Inquiry finding

- ➔ The costs of livery restrictions appear to have been understated by previous reviews. The requirement imposes a high cost burden on regional taxi operators, without delivering any significant benefits to consumers.

⁵⁷ Booz Allen Hamilton (August 2006), *Country Taxi Review – Summary Survey Results (All depots)*, Victorian Taxi and Tow Truck Directorate, Melbourne

⁵⁸ Country Taxi Industry Review Working Group (May 2006), *Op.Cit.*, p.57

16.4.4. Safety and security

Safety camera requirement

Across Victoria, there are currently 19 NSPs with seven to nine vehicles. Those NSPs that spoke to the inquiry indicated that the safety camera requirement is a major impediment to their expansion. If these networks successfully apply for more vehicles, they will also have to install cameras for their entire fleets at a cost of at least \$30,000.

The threshold of 10 taxis does not appear to be based on a risk equation, as it does not consider local crime rates, population, demographics or other variables that may influence the need for safety cameras.

The inquiry spoke with a number of regional and country operators whose taxis operate with and without safety cameras. Many suggest that cameras are a deterrent to anti-social behaviour and assaults, but they are not as effective as good customer service and fleet communications.⁵⁹ These operators consider that a camera's usefulness is greatest after a crime has been committed as a source of evidence, but there is much scepticism that offenders will be caught or that any stolen money will be recovered. A number of operators hold the view that the benefit of the camera is more for Victoria Police, but this benefit is paid for by the operator.

Further issues arise in the country and regional context with the installation and maintenance of the cameras and downloading of pictures. There are limited authorised camera installers and programmers in country areas and vehicles can be off the road for long periods of time in order to have the cameras installed. Repairs and faults often require the vehicle to be taken to Melbourne.

Currently, Victoria Police and the VTD need to be present when information is downloaded from the camera, requiring the vehicle to be off the road while this is being done. Some country operators far away from Melbourne, such as those in Mildura, may wait many days before the VTD officers can be present.⁶⁰

Inquiry finding

- ➔ There is little understanding or concrete evidence of the risks and benefits associated with the 10 taxi threshold for safety cameras in regional areas. Further investigation is needed before introducing safety camera requirements statewide.

⁵⁹ Operators note the importance of radio communications when a driver is in trouble. Operators also note the value of close communication with Victoria Police and the mutual benefits of this relationship in deterring crime

⁶⁰ Safety cameras and other safety-related measures are also discussed in chapter 17

Encouraging and paying for safe ranks

While rank infrastructure falls under the jurisdiction of local councils, most 'safe' taxi ranks have received funding from the Commonwealth or Victorian Governments. Larger regional cities have safety ranks that operate late on Friday and Saturday nights. Funding for the ongoing costs of ranks is most often provided by local councils; however, businesses, hotels and community groups also contribute in some towns.

Safe taxi ranks are proving to be successful in organising the distribution of taxis during peak demand periods. Local police favour safe ranks because they 'corral' customers through a central point. However, with a high frequency of intoxicated patrons passing through safe ranks, many require security staff or a supervisory figure to ensure they are used correctly and minimise anti-social and aggressive behaviour.

Grants and government subsidies have been used to good effect in establishing safe rank infrastructure (such as road works, barriers, signage and sometimes CCTV). But a number of councils who met with the inquiry note that the recurrent costs of funding security guards and monitoring staff are significant and a serious concern. These councils point out that many potential beneficiaries of safety ranks do not contribute to their operation or upkeep.

At the local level, local councils, police, hotels and entertainment venues, and community groups all have a stake in the success of safe ranks. However, it is most often local councils that pay for the ranks. Councils have suggested the Victorian Government and local licensees should play a greater role in meeting the recurrent costs of running a rank.

To some extent, the need for facilities such as safe ranks arises because of regulatory restrictions on taxi and hire car availability. If there were more licensed vehicles available, and perhaps different types of vehicles such as taxi-buses, people would be able to disperse more quickly from entertainment venues and precincts.

The inquiry notes that the Victorian Government has been funding the development of safe ranks in many towns in regional Victoria.

Inquiry finding

→ Local councils should not have to bear the brunt of funding safe taxi ranks while other beneficiaries of the ranks make no contribution to their operation or upkeep. Ways need to be found to share the costs of maintaining safe ranks in regional cities to ensure they remain operational and appropriately supervised.

16.4.5. Advertising on taxis

As discussed in chapter 10, many regional taxi operators believe the restriction on advertising on taxis is unfair and denies them an important – and much needed – revenue stream. Operators in country towns say that advertising could pay for a set of tyres for a year or contribute to other running costs. They also point out that other public transport providers in country areas (train, tram and bus) are permitted to use advertising as a source of revenue.

Inquiry finding

→ Advertising restrictions add cost to the industry and reduce its competitiveness. In regional markets, advertising has the potential to become a helpful revenue stream for taxi operators and should be an available option to help support their ongoing viability.

Case study

Mildura safe taxi rank

Mildura Rural City Council was awarded Commonwealth Government funding to establish a taxi waiting zone, which now operates on Friday and Saturday nights. During these times, two security guards are stationed at the rank. A council-run CCTV operates at the rank and a person is paid to monitor the footage (from the police station) and organise appropriate responses.

In 2011, the council proposed discontinuing the security guard presence as it was costing \$60,000 per year and there were insufficient funds to pay for both security at the rank and the CCTV monitoring resource. Ahead of the council's budget meeting, there was strong community support (led by the local paper) for the continuation of the safety rank, with claims that anti-social behaviour would result if the rank became inactive. The council decided to fund the safe rank and discontinue the CCTV monitoring.

Mildura's safe taxi rank is a prime example of where a number of businesses and agencies benefit from the service provided, but there is only one funding source to keep the rank operating. Licensed premises (through the Liquor Accord), Victoria Police and local shopkeepers all receive the benefits of the rank without making any direct contribution to its operation.

16.4.6. Wait times for national police record checks

A requirement of driver accreditation is for a National Police Record Check to be submitted to the VTD. The application form for a police check suggests that applicants should allow for a minimum of 10 working days from the date the application is received to have the check processed.⁶¹ However, regional operators report waits of up to two months for checks to be completed, during which time many potential driver candidates move on to other jobs. One operator told the inquiry that, over the course of 12 months, 12 potential drivers had left town because they could not afford to wait any longer to obtain the police check.⁶²

Recruiting and retaining taxi drivers in regional areas is a major concern for operators. While nominating driver remuneration as the major reason for this difficulty, many operators say that the wait time for obtaining a police check is another contributor to driver shortages. The delays in processing police checks have a potentially large impact on small country towns, particularly where there is a shortage of WAT drivers to service demand. A number of operators complain that they are unable to source good WAT drivers and when they did find a driver, the lengthy police check process leads to many losing interest.

Inquiry finding

→ The delay in processing police checks is exacerbating the already difficult task of attracting taxi drivers in regional areas. More can be done to expedite police checks and where delays occur, applicants should be notified and reasons given.

16.4.7. Flexible taxi services

There are several examples in country Victoria where taxis are being used in more flexible ways than traditional point-to-point services. These examples often involve the use of an underutilised High Occupancy Vehicle or WAT to transport a number of passengers to different locations at a discounted per head fare. These services represent innovation on the part of regional taxi operators in catering for customers who otherwise would not be able to afford the taxi service.

As discussed in chapter 19, the use of taxi-bus services can expand the taxi market, as well as helping to address regional transport disadvantage. However, there are major obstacles to the creation of these services, stemming from exclusive rights granted to bus operators and prescriptive taxi and bus regulations that discourage service flexibility and innovation

61 Victorian Police website:
www.police.vic.gov.au/content.asp?Document_ID=274

62 Meeting with Greg Ackling (Lakes Entrance Taxis) 30 September 2011

Taxis are considered a 'luxury' travel mode by many country users because of cost factors and the long journeys that often need to be made to visit regional centres. If these users do not have access to a private vehicle, they often rely upon community bus services or public transport. However taxi companies in Bairnsdale (see case study in chapter 19), Timboon (see case study in chapter 19) and Lakes Entrance – working with local and state governments – have attempted to increase demand for their services by running fixed route services. These approaches are endorsed by local councils as an important complement to public transport services. For example, Buloke Shire Council notes in its submission:

*The introduction of a flexible approach to 'dead running' time may ... create opportunities for innovation and entrepreneurship, which would ... benefit the provision of public transport services in rural areas.*⁶³

Businesses, community groups and councils in regional Victoria have also told the inquiry that these services have great potential to address gaps in regional transport markets.

The operation of taxis as fixed route bus-type services and options for expanding these services are discussed in detail in chapter 19.

16.4.8. Fixed contract taxi services

As discussed earlier, the regional taxi industry relies heavily on contracts with Commonwealth and Victorian Government agencies such as DVA, Department of Human Services and Department of Education for a fixed revenue stream. Many operators say they cannot run a viable business without these contracts. Discussions with regional operators suggest many fixed contracts have 'dried up', with many community groups preferring to use their own mini-buses and private vehicles for transport without considering the potential cost effectiveness of using taxi and hire car services. A number of operators also told the inquiry that where contracts are tendered, the tender processes are confusing, time consuming and overly bureaucratic. Two operators observe that the DVA's tender questions on a firm's green credentials are difficult for a taxi company to answer.

The 2006 Country Taxi Review recommended that government departments work together in developing consistent approaches to procurement and brokering of community transport projects, noting the need for flexibility in regulations and better understanding by government of services that can be provided by taxis. Another recommendation was for the development of training material to encourage taxi use amongst community groups.⁶⁴ The Department of Infrastructure supported both recommendations, proposing that it be the lead agency. However, there is little evidence these strategies have been implemented.

In 2010, the VTA produced a Contracted Services Pack designed "to assist [VTA] members by addressing and finding practical ways to overcome declining occupancy rates and taxi demand".⁶⁵ The pack describes a number of alternative type services that can be provided by taxis, drawing on the experiences of Queensland taxis. The second part of the pack comprises a contract that taxi businesses can use to ensure they are within their legal rights when undertaking contracted services for on- and off-meter work. While this pack may be helpful to some regional taxi operators, it does not address the review's recommendation that a common approach to procurement and brokering of community transport services be developed and led by the DOI.

The inquiry notes that the Contracted Services Pack represents a proactive approach by the VTA to encourage greater innovation by regional businesses. However, the inquiry's consultations with regional operators suggest more can be done by operators to seek out new business opportunities. In part, this may reflect a lack of legal and financial business skills within regional taxi businesses, an observation made by the Country Taxi Review Working Group⁶⁶.

63 Buloke Shire Council, Op. Cit., p.12

64 Victorian Country Taxi Industry Review Working Group, Op. Cit., p.52
65 Letter to members, VTA Contracted Services Pack, p.1 (provided to the inquiry by the VTD)

66 The Country Taxi Review observed that financial and legal expertise was often lacking in country operator businesses and recommended an upskilling initiative. The Victorian Government supported this initiative with a \$20,000 program; however, uptake was very poor

The inquiry believes that local and state governments can achieve substantial efficiency benefits through greater standardisation of tendering and procurement processes in relation to community transport services. These processes could include a communications plan designed to lift the profile of regional taxi operations with local and state government agencies (an issue raised by the VTA in its submission on regional taxi services⁶⁷), as well as mechanisms to ensure that consideration is given to the costs and benefits of taxis and hire cars in making decisions about community transport options and projects.

Inquiry finding

- ➔ Taxis and hire cars have potential to offer better value for money for government in the delivery of community transport services than the purchase and maintenance of vehicles. This potential should be fully explored.

Case study

Regulatory obstacles stifle flexibility

A submission to the inquiry from Southern Mallee Transport Connections Partnership (TCP) and Buloke Shire Council raises a number of issues about the lack of flexibility in taxi and hire car regulation and its potential impact on accessible transport in regional areas.

The submission describes previous attempts by the TCP to develop a 'third tier' taxi licence to provide 'one off' taxi services in regional communities. The model was based on the Wycheproof 'special purpose' taxi licence, which allows fixed fare \$8 tickets to be purchased from the council (with the passenger paying \$2 and council \$6). The service operates during limited hours, finishing service at 6pm each day.

Attempts by the TCP to extend this model for other communities failed after the VTD advised that they were changing the criteria for the issue of a special purpose taxi licence for 'one off' services. The VTD explained to the TCP and the council that the criteria had changed as the Wycheproof model afforded too much flexibility.

The TCP and council submission also argues that the current \$20,500 cost of a VHC licence (irrespective of a community's size) and the lengthy process involved in applying for a hire car licence are further barriers to addressing community transport needs. The submission proposes a new hire car licence that can be used in regional transport connections projects, issued at a cost of \$1,000 and zoned to a specific community in need. A range of vehicle types could be used (family sedans and small or large buses) depending on the availability of the local infrastructure and community requirements. Such a licence would open up opportunities for community enterprises to provide a local transport service.

67 VTA, Victorian Regional Taxi Services, Op. Cit., p.3

16.4.9. Cross border issues

Border towns such as Albury, Wodonga, Mildura, Tocumwul and others often have two operational taxi networks servicing the wider community, with at least one network operating either side of the border. Networks and operators in these towns face particular difficulties in managing their operations in accordance with two different taxi regulatory regimes, two different set of road rules and zoning issues that lead to higher dead running times. For consumers, the two sets of regulations can create confusion about the service they should expect, the fares they have to pay and where to make a complaint.

Albury (NSW) and Mildura (Victoria) are the largest of the border towns visited by the inquiry. During these visits, taxi users, taxi companies and local councils from around the region were invited to meet with members of the inquiry team. The inquiry also received submissions from local councils and taxi networks that raise cross border issues.

Government approaches

Over the years, the Victorian and NSW Governments have made efforts to review and address cross border regulatory issues, some of which have involved addressing taxi regulation.

Between 2006 and 2011, a NSW-Victoria cross border consultative committee met annually, including representatives from government departments, local councillors, and state Members of Parliament for border electorates. Taxi and transport regulation were discussed at some of these forums, leading to an agreement in 2008 between the NSW Ministry of Transport and Victorian Department of Transport to pursue the establishment of a joint taxi rank in Albury and in Wodonga during peak hours. The aim of the ranks was to allow Wodonga taxis to pick up passengers wanting to travel to Wodonga from the Dean Street, Albury, taxi rank during peak hours and a rank in Wodonga for Albury taxis to service passengers going to Albury.⁶⁸

In December 2011, the NSW and Victorian Premiers met to progress the Interstate Reform Partnership. As part of the Partnership, the Premiers agreed to:

*...investigate, on an ongoing basis, opportunities for Victoria and New South Wales to work together for better outcomes specifically for entities and individuals who conduct business across the NSW-Victorian border.*⁶⁹

The Premiers noted how differing registration, licensing and regulation can affect small and medium businesses in border towns, and committed to minimising regulatory burdens in areas such as Albury- Wodonga. The Premiers will meet twice a year to oversee the Reform Partnership, with senior officials from both states meeting more regularly.

In early 2012, the NSW Government appointed Mr Steve Toms as Australia's first Cross Border Commissioner, with a brief to advocate on behalf of businesses, organisations and residents in border communities and make recommendations to resolve longstanding regulatory and other anomalies.⁷⁰

The Wodonga Council submission to the inquiry acknowledges that a lot of work has been done by state departments to integrate cross border regulatory issues; however, the council notes that the outcomes 'on the ground' remain unsatisfactory. A similar view is held by the Bus Association of Victoria and the VTA, with both organisations highlighting that the regulatory anomalies place cost and time burdens on operators who operate across the border.⁷¹

Cross border regulation

Some industry regulation provides exemptions to state-based law that allow for cross border carriage of passengers. For example, the *Bus Safety Act 2009* (Division 6, Section 44) allows for buses that are not registered or accredited in the state of Victoria to run provided they are picking up a passenger and dropping them off in the other state. In the area of heavy vehicle regulation, significant work has been done to harmonise restrictions such as truck-trailer combinations in the 'green triangle' region between Victoria and South Australia.⁷²

68 Communiqué from Department of Premier and Cabinet, 2008, Outcomes of the 2008 New South Wales – Victoria Chief Executives' Cross Border Issues Meeting, accessed 3 April 2012 at www.dpc.nsw.gov.au/__data/assets/pdf_file/0016/32065/Outcomes_of_the_2008_New_South_Wales-Victoria_Chief_Executives_Cross-Border_Issues_Meeting_-_Communique_-_October_2008.pdf

69 Interstate Reform Partnership – NSW and Victoria, 14 December 2011, Communiqué, p.2, accessed 3 April 2012 at www.sciencemedia.com.au/downloads/2011-12-14-1.pdf

70 See Cross Border Commissioner, Department of Trade and Investment website, accessed 20 March 2012 at www.business.nsw.gov.au/doing-business-in-nsw/cross-border-commissioner

71 Bus Association Victoria (2011), *Cross Border Anomalies and Operational Issues*, accessed 3 April 2012 at www.busvic.asn.au/news/cross-border-anomalies-and-operational-issues

72 Victorian and South Australian Governments, (2009), *Green Triangle Region Freight Action Plan*, Adelaide, p.55, accessed 3 April 2012 at www.transport.vic.gov.au/__data/assets/pdf_file/0019/30844/GreenTriangleActionPlan.pdf

No such exemptions apply in relation to Victorian taxi regulations; however, consistent administrative arrangements have been entered into by taxi regulators. For example, duplication of driver accreditation requirements has been reduced by regulators recognising another state's documentation processes. This mutual recognition has allowed Albury taxi drivers to be accredited as Victorian taxi drivers by the VTD using the same data provided to the NSW regulator.

Albury-Wodonga

The towns of Albury and Wodonga feature prominently in discussions with the inquiry on cross border issues.

The application of different state regulations translates to different services in each town. In Albury, taxis are usually white and carry advertising, with a fare tariff that includes distance-based pricing thresholds and public holiday surcharges. A taxi in Wodonga will be yellow, have no advertising and a completely different fare structure. During the inquiry's visit to Wodonga, taxi user groups and operators reported that a trip between Albury and Wodonga can cost \$6 or \$28 depending on the operator. The differences in price between the two services can be seen in Table 16.5.

Table 16.5 State-based taxi fares

	NSW	VIC
Flagfall	\$3.90	\$3.30
Tariff 1	\$2.12/km (first 12km) \$2.94/km (12km+)	\$1.67/km
Wait time	90c/min (less than 26km/hr)	\$58c/min (less than 21km/hr)
Night time surcharge	20% (10pm – 6am)	\$3.00 (12am- 6am)
Holiday surcharge	20% Sunday, public holidays	\$3.70 Christmas Day, Boxing Day, New Years Eve, New Years Day

Mr Bill Tilley, Member for Benambra, provided a submission to the inquiry on these cross border issues. Mr Tilley points out that many Victorians access Albury's entertainment district on a regular basis and require taxi services to do so, due to a shortage of public transport services:

Such a dearth of public transport options and the inability for taxis to accept fares in a different jurisdiction from their base anecdotally fuels problems of antisocial behaviour and incidents of drink driving as patrons have to coalesce at overcrowded taxi ranks for long periods or choose to risk the short drive back across the border.⁷³

Safety concerns around late night entertainment venues were also discussed in the inquiry's meeting with Albury City Council. The council is addressing these concerns through a Crime Prevention Committee, which is focussing on moving people quickly away from these venues late at night, using bus services provided by hotels and greater accessibility of taxi services. The inquiry was told that a Wodonga rank is permitted to operate in Albury late at night to take passengers back to Wodonga, despite the operator providing a service outside their licence conditions.⁷⁴ Albury City Council recorded its support for this rank in the council minutes of 15 August 2011:

Both Albury and Wodonga taxi operators also seemed positive about the informal arrangement of a Wodonga taxi pick up opposite the Albury Taxi Rank in Olive St on Saturday nights. Security guards apparently direct Wodonga customers to cross the road to catch these Wodonga taxis. Further discussions are underway regarding the possibility of making this a formal taxi rank.⁷⁵

While late night entertainment venues in Wodonga do not attract the same volume of patronage as Albury, the Wodonga City Council submission also notes that more work is needed to acknowledge cross border taxi services.⁷⁶ Councils from both Albury and Wodonga have expressed a desire for a 'seamless' service to operate between the two towns in order to deliver better services to the community.

VCEC inquiry

In 2011, the Bus Association and the VTA brought a number of cross border issues to the attention of the Victorian Competition and Efficiency Commission (VCEC) during its inquiry into Victoria's regulatory framework, including different regulations about child restraints in taxis and the lack of mutual recognition of mandatory certification and checks between states. VCEC acknowledged these concerns and suggested that:

While regulatory inconsistency may have a significant impact on businesses in this region, the change and disruption associated with full harmonisation is likely to impose costs on many businesses with few, if any, benefits. In these cases, alternative ways of dealing with the regulatory overlap should be considered.⁷⁷

In its report, VCEC considered mutual recognition of state based regulation as an alternative to harmonisation of regulation. The Commission argued that:

...if well implemented, mutual recognition can achieve many of the benefits of harmonisation while maintaining a greater degree of jurisdictional independence and providing scope for regulatory competition.⁷⁸

In the case of the duplicate regulation impacting on Albury and Wodonga taxi and bus companies, VCEC recommended that the two state governments reach agreement on the free operation of services between both towns.⁷⁹ These arrangements should be reviewed after two years to determine their success and whether there are lessons that can be applied to other areas of regulatory overlap between jurisdictions.

In response, the Victorian Government noted the progress made in developing a more consistent administrative framework across the two jurisdictions and committed to continued engagement on these issues.⁸⁰

73 Letter from Bill Tilley, MP, to the inquiry, 9 June 2011

74 Inquiry meeting with Albury City Council, 30 September 2011

75 Albury City Community and Cultural Committee Agenda, 15 August 2011, accessed 2 March 2012 at www.alburycity.nsw.gov.au/resources/documents/agenda_-_15_august_20112.pdf

76 Wodonga City Council, Submission to the Taxi Industry Inquiry, SS85, p.1

77 VCEC (2011b), *Inquiry into Victoria's Regulatory Framework Final Report*, VCEC, Melbourne, p.188

78 Ibid., p. 189

79 Ibid., Recommendation 8.5

80 Victorian Government (March 2012), *Response to the Victorian Competition and Efficiency Commission's Final Report.*, Melbourne, p.25

Inquiry findings

- ➔ State-based taxi regulation has led to a situation where two very different types of service can be observed operating in the same location in a number of places in Victoria. This duplication of regulation can impose costs on taxi operators and consumers.
- ➔ While Victorian and NSW taxi regulators are cooperating to improve the situation, more work can be done to provide a more seamless taxi service between border towns. One possible approach, not previously considered, would be to devolve regulation to the local level on at least some issues such as fares.

16.4.10. The role of the regulator in regional Victoria

Currently, the regional taxi and hire car markets appear to rely greatly on self-regulation, with driver and network issues, or complaints about service, managed largely by operators. The VTD does not have any regional offices, but maintains a presence through its Transport Safety Officers who conduct regional inspections. Many regional operators expressed annoyance at poor consultation by the VTD and their inability to effect changes to uniform regulations and practices that they perceive as having little relevance to the operation of a taxi or hire car in the country.

A number of regulations are virtually ignored in regional areas due to their lack of relevance and/or infrequent enforcement. Examples given by operators include the carrying of spare wheels (which reduces baggage space), negotiating and charging fares off the meter and 'jockeying' of drivers. Operators feel strongly that the VTD concentrates its efforts on metropolitan Melbourne and does not understand the regional environment. Operators also believe the VTD is unresponsive to their complaints and concerns.

If greater competition is introduced to these markets, a greater regional presence by the industry regulator will be required. The regulator will also need to work closely with other organisations in country and regional areas, including local councils and Victoria Police.

Inquiry finding

- ➔ Better engagement with regional operators and a stronger regional presence by the regulator is needed to address operator complaints and concerns, as well as to ensure the success of any larger reform program.

Regulator clarification of 24/7 continuous service

The 2006 Country Hire Review recommended a default requirement that country taxis provide 24/7 hour continuous service and that the VTD encourage operators to apply for more limited operating hours where demand is very low (with limited operating hours subject to meeting local requirements). The Department of Infrastructure supported the recommendation and the regulator released an application form for reduced operating hours by country operators.

In the inquiry's consultations, country operators have expressed frustration with the continuous service provision. Their views are echoed by the VTA, which believes the provision has caused great confusion amongst operators, particularly those who have addressed the requirement by 'rostering' drivers and consequently risk contravening competition laws.

The inquiry notes that, in practice, many operators in country and regional markets (and in metropolitan and urban areas) do not operate their taxis on a 24/7 continuous basis. This requirement may have more relevance in a closed market situation. Where licences are more freely available, there seems little reason to prevent operators working the hours they desire.

Inquiry finding

- ➔ The current application process provides an opportunity for operators to limit their hours where there is no demand. There also appears to be a lack of understanding in the taxi industry about the continuous service requirement and its interaction with competition laws. These issues could be resolved through better engagement by the regulator at a regional level.

Chapter 17.

17. Safety

Key messages

- Safety issues associated with taxi services are a significant concern for taxi drivers, taxi users and the wider community.
- Safety is not seen by Victorians as the sole responsibility of the industry, but as a shared responsibility between industry, taxi users, government, Victoria Police, late night venues and major event organisers.
- Victoria's taxi and hire car industry has a relatively high level of both passenger and driver safety; however, it is clear that improvements can be made in a number of areas.
- The complexity and fragmentation of the regulatory environment means that safety matters relating to taxi and hire car services are not covered in a holistic way. The safety requirements placed on industry participants are scattered across various pieces of legislation, licence conditions and accreditation requirements and are often highly prescriptive.
- The performance of a range of safety-related regulations and measures in place in the taxi industry can best be described as 'mixed'.
- The operation and effectiveness of safety cameras, driver protection screens and duress alarms could be improved significantly.
- Highly prescriptive safety-related regulations about particular pieces of equipment and their operation often result in substantial costs for industry, despite there being little verifiable data about the safety benefits accruing to passengers and drivers. Moving away from this model towards a risk-based, outcomes-focused model will give the regulator and the industry greater flexibility in responding to safety issues.
- As safety-related regulations add cost to the industry, regulators must ensure that these interventions are effective and properly consider all costs and benefits. Intervention by the regulator should be the minimum required to ensure safe vehicles, safe drivers and safe passengers.

Ensuring the safety of passengers and drivers is a major objective of taxi and hire car industry regulation.

This chapter discusses a range of issues associated with providing safe taxi and hire car services in Victoria. It summarises concerns raised with the inquiry in submissions and consultations, describes the regulatory framework covering safety and sets out the rationale for intervening in the taxi and hire car markets to protect the safety of drivers and passengers. Current safety performance is evaluated and options for reform discussed.

17.1. Introduction

Taxi users have little opportunity to assess safety issues associated with a vehicle or driver prior to undertaking a trip. Even if they did, they are not necessarily well placed to reach an informed view on these matters.

Drivers also experience problems from not knowing their passengers and being vulnerable in an open vehicle to assault. While employers generally are required to provide a safe working environment for their employees, this relationship does not always apply in relation to taxi. Drivers can take their own measures to protect themselves, but these may not be effective or desirable.

In addition, both consumers and drivers tend to be overly optimistic about their safety. These factors mean that market failure is likely and there is a clear case for governments to initiate measures to improve safety outcomes for passengers and drivers.

However, determining what safety measures are appropriate can be difficult. The impact of proposed measures may be difficult to assess and a judgement needs to be made about the extent to which safety measures are required to be adopted across the industry. Safety measures can be costly and consideration needs to be given to how the costs of these measures compare with their benefits. Where some measures have greater net benefits than others, these should be given precedence.

Generally, safety outcomes should be pursued as long as the additional benefits obtained outweigh the additional costs involved. This is not the same as maximising safety outcomes. For example, it is possible that safety measures can impose so much additional cost on taxi and hire car operators that fares have to be increased. Some taxi users could then be forced into taking higher risk transport alternatives, which would be counter-productive from the broader community perspective.

As noted throughout this report, the inquiry's view is that it is generally desirable that regulation emphasises the outcomes sought to be achieved, rather than being overly prescriptive as to how these outcomes are achieved. For example, different vehicles have different safety characteristics. Newer vehicles may require less frequent inspection than older vehicles. A vehicle with a divider between driver and passengers (such as the well-known London black cab) may not require other safety measures, such as cameras, to achieve the same level of safety for passengers and drivers.

Victoria has a history of government taking ad hoc measures to improve safety outcomes for passengers and drivers in response to events highlighted by the media. There has been no strategic approach adopted to safety issues and little attempt to review the effectiveness of past measures. The inquiry considers that the Taxi Services Commission should have a significant role in this area in the future, including initiating and undertaking research into the effectiveness of safety-related measures and advising the Victorian Government on appropriate measures.

17.1.1. Consumer research

Results from the Department of Transport's (DOT) Customer Satisfaction Monitor show that taxi users are reasonably satisfied with their personal safety when using taxi services (76.8 out of 100), particularly during the day (81.3). However, they are less satisfied with their personal security using taxi services after dark (71.7) and at taxi ranks after dark (60.3). In relation to the overall safety of the journey, customers are less satisfied with the general alertness of the driver (67.5), the maintenance and condition of the taxi (67.6) and the safe driving skills of the driver (74.9).¹

The inquiry's consumer research asked participants a series of questions about safety in relation to accessing and experiencing taxi services. Participants indicated that safety is a factor when choosing a taxi over other modes of transport, but is not rated as highly as efficiency/convenience. The research also found:

- Country taxi services are perceived to be safer than metropolitan services
- Non-users perceive taxis to be less safe than taxi users
- Compared with other forms of transport, people see taxis as less safe than their own vehicles and not necessarily safer than other forms of transport

- Generally, taxi users did not feel particularly safe while waiting for a taxi on the street and non-taxi users were even less likely to say they would feel safe in this situation.²

Participants in the research also reported experiences of drivers who do not drive safely, including speeding, running stop signs or red lights and merging dangerously, with one participant experiencing an accident while in a taxi. One participant observed:

Taxi drivers should make passengers feel safe, not take unnecessary risks.³

Many participants were also concerned about driver distraction, commenting that drivers are often talking on the telephone or looking at or programming their GPS units or taxi booking systems rather than concentrating on the road.

17.1.2. Submissions and consultations

A large number of submissions to the inquiry stressed the importance of a safe taxi travel experience for drivers and passengers. Generally, safety is not seen by taxi users and the broader community as the sole responsibility of the industry, but as a shared responsibility between industry (licence holders, operators, network service providers (NSPs) and drivers), taxi users, government and other organisations, such as Victoria Police, late night venues and major event organisers. The main safety-related issues raised with the inquiry are summarised below.

Passenger safety

While Victoria's taxi industry is perceived by respondents to the inquiry as having a relatively good record of passenger safety, some specific concerns are raised repeatedly.

Unsafe driver practices

The inquiry received numerous complaints about unsafe driver practices, including poor driving skills and poor adherence to the road rules, such as driving while talking on the phone, speeding, falling asleep and not wearing a seatbelt.

As noted in chapter 15, taxi users with a disability and their advocates report unsafe practices by drivers in being unable to handle mobility aids or secure wheelchairs properly.⁴

¹ Wallis Consulting Group (December 2011), Op. Cit. p.2

² Ipsos Social Research Institute (2012), Op. Cit., pp.66-68

³ Ibid., p.85

⁴ Driver practices and behaviour in dealing with customers with a disability are discussed in chapter 15

There is a perception among some members of the community that some taxi drivers may be unlicensed or unaccredited, may have committed crimes or may not have sufficient skills to drive safely. This concern is reinforced by reports from passengers of driver identification photos not matching the person driving the vehicle. A related issue is that some passengers feel less safe when they cannot readily identify the driver and the vehicle. Identification is often poorly displayed and difficult to read, particularly for passengers with vision impairment. The location of these details is also a concern, especially for passengers who need to travel in a WAT or in the rear of a conventional vehicle.

Inappropriate / threatening driver behaviour

Of great concern to the inquiry, a number of taxi users report experiences where they have felt unsafe, scared or directly threatened by a driver, especially when travelling alone. These instances include being unable to leave the vehicle until a disputed payment had been made, inappropriate personal questions being asked of the passenger or drivers wanting to engage in aggressive debates and arguments. Fear of retribution makes some passengers reluctant to complain about these instances.

Many respondents report that women and people with a disability are more likely than other taxi users to feel unsafe travelling in taxis due to inappropriate driver behaviour (such as drivers asking personal questions, ignoring passengers' requests for assistance or being aggressive or argumentative). The Centre Against Sexual Assault Forum's submission notes:

Over many years, members of the Victorian CASA Forum have been concerned about the safety of taxi travel for women. It has been brought to our attention repeatedly, and on numerous occasions, that the safety of a woman travelling on her own in a taxi, and of young women in particular, is compromised, both in Melbourne and in the larger regional Victorian towns ...

We hear that many young women very regularly choose not to take a taxi home at night from the city. They will instead go with friends and stay at a friend's house and then find their way home the next day on public transport or ask another friend or family member to collect them. This is in preference to taking a taxi home – specifically for the reason of being afraid of being harassed or assaulted by the taxi driver.⁵

⁵ Centre Against Sexual Assault Forum, Submission to the Taxi Industry Inquiry, SS369, p.1

In 2010, a taxi driver allegedly refused to take a female passenger to her stated destination in Melbourne's CBD and instead threatened to take her to the western suburbs and harm her. The passenger was so concerned for her safety she jumped from the moving taxi, suffering serious head injuries.⁶ Unfortunately, these stories are not unique and reinforce concerns about passenger safety when travelling in taxis.

As described in chapter 15, participants at the forum co-hosted by the inquiry and Victorian Council of Social Service (VCSS) noted that some taxi users are particularly vulnerable to being exploited when using taxi services and related instances where they believed drivers had committed fraud. Generally, forum participants indicated that a 'safe' taxi service is one where they can be confident that drivers are honest and will not take advantage of their vulnerabilities.

Child safety

Several organisations have called for the removal of the current exemption for taxis from regulations requiring children up to the age of seven to be restrained in an approved child restraint or booster seat, or for a suitable system to be established to provide child restraints in taxis on request.

KidSafe told the inquiry that its research found that of those who travelled with a child in a taxi, half said they had not used a child restraint. In two-thirds of these situations, an adult seatbelt was used and the remainder of the time, the child sat on an adult's knee and shared the seatbelt.⁷

Vehicle safety

A number of taxi users report feeling unsafe due to poorly maintained vehicles.

Safety while waiting for a taxi at night

Taxi users – and a number of businesses and local councils – have also told the inquiry that short fare refusals and the poor availability of taxis at peak times exacerbate safety issues by leaving people with limited options to get home. The Nightclub Owners Forum points out that the costs of taking a taxi, as well as limited availability, make it particularly difficult for people working in late night venues to get home safely after work.⁸

Generally, drivers in Melbourne and large regional centres are supportive of the Safe City Taxi Rank scheme, seeing it as a way of improving driver and customer safety. A number of drivers would like to see more safe ranks and a stronger police presence at particularly busy ranks.

⁶ The Age (19 August 2010), 'Taxi driver 'abduction': woman jumps from moving cab'.

⁷ KidSafe, Submission to the Taxi Industry Inquiry, SS138, p.1

⁸ Nightclub Owners Forum, Submission to the Taxi Industry Inquiry, SS278, p.1

Driver safety

Both within the industry and the broader community, there is concern about offences committed against taxi drivers.

Feedback from taxi drivers to the inquiry indicates that many drivers have been involved in a situation where they have felt unsafe on the job, with incidents ranging from intimidation and verbal abuse from passengers to physical assaults and on-road accidents.

Understandably, many taxi drivers focus on issues surrounding their personal safety, especially when driving late at night. Many drivers believe that alcohol fuelled anti-social behaviour is making their jobs more difficult than ever:

Taxi driving is a dangerous occupation. There is a constant threat of abuse, assault, fare evasion and traffic accidents. As a night driver, it would be a rare shift when there was not a driver in an emergency situation somewhere in Melbourne.⁹

It is more dangerous to drive taxis than ever before because of alcohol fuelled violence.¹⁰

Drivers report being verbally and physically abused by customers and members of the public, as well as customers absconding without paying fares and customers damaging vehicles (with some drivers then being required to pay for repairs). Disturbingly, racial abuse of drivers appears common.

Taxi operators also observe that poor passenger behaviour leads to damage to taxi vehicles:

As it stands now it is too dangerous for a driver to go the city. Just this last weekend I had two taxis lose their mirrors and another two had body damage courtesy of an idiot's boots and missiles such as stubbies.¹¹

The risks for drivers

Taxi driving – and, to a lesser extent, hire car driving – is an inherently risky and sometimes dangerous occupation. Some estimates put taxi drivers as having up to 15 times the average exposure to occupational violence, with risks stemming from picking up unknown people from random locations, working in close proximity with unknown people, long working hours and working alone, sometimes in isolated areas.¹²

Five main factors contribute to potential safety risks:

- **Passengers** – Passengers are often unknown quantities for taxi drivers. Their behaviour, attitude and physical/mental state, particularly when under the influence of alcohol or drugs, can put taxi drivers at risk, ranging from distraction through to verbal and physical assaults and fare evasion.
- **Drivers** – Taxi drivers can inadvertently put themselves in potentially risky situations. Inexperience, poor communication skills or poor local knowledge of an area have the potential to lead to misunderstandings or conflict with passengers. Anecdotally, more experienced drivers say they are able to avoid these types of situations through better judgment and awareness of their surroundings.
- **Taxi vehicles** – Vehicles commonly driven by taxi drivers in Victoria are family sedans or parcel vans, not custom-made vehicles designed for use as a taxi. Safety features such as cameras and protective screens are added post-production. These vehicles are often selected not for their safety features but because they are relatively inexpensive to purchase secondhand, are reliable, have lower maintenance costs than other vehicles and can be repaired quickly.
- **Other road users** – Spending hundreds of hours on the road every week puts taxi drivers and their passengers at a higher risk of accidents with other road users than the average road user. Conversely, feedback to the inquiry suggests that inexperienced taxi drivers and those who are unfamiliar with a local area or have poor driving skills are more likely to have accidents with cyclists, motorcyclists and pedestrians.
- **Time of day** – Operating at high risk times (late at night, early in the morning and on weekends) can be a risk for both taxi drivers and taxi passengers. Drivers working at these times (particularly in CBD and inner city locations and large regional centres) may face safety risks through the increased likelihood of passengers being drug- or alcohol-affected. Limited late night transport options can lead to long wait times for a taxi, particularly at ranks, and this can result in frustration, aggression and violence between potential passengers and towards taxi drivers.

Concerns relating to each of these factors have been raised with the inquiry. While some of these matters are outside the scope of the inquiry (such as tackling a perceived increase in antisocial behaviour), it is clear that improvements can be made in a number of areas.

9 Phil Lipshut, Submission to the Taxi Industry Inquiry, SS96, p.2

10 Philip La Roche, Submission to the Taxi Industry Inquiry, SS119, p.1

11 Mark Longton, Submission to the Taxi Industry Inquiry, SS279, p.2

12 See for example, Chappell, Duncan and Di Martino, Vittorio (1998), Violence at Work, International Labor Office, Geneva, p.46

Protective screens

Considerable dissatisfaction is expressed by some drivers with the current design of protective screens. These drivers feel the screens restrict interaction and communication with passengers, impede vision and also make it difficult to safely exit a vehicle if involved in an accident that renders the driver side door unusable. While some drivers want protective screens made mandatory in all taxis, others would prefer to continue to leave their use up to individual drivers.

Taxi operators note that driver protection screens must be replaced when vehicles are replaced, as they cannot be modified to fit the new vehicles. In addition, side airbags in newer vehicles mean that driver protection screens cannot be fitted for safety reasons. For these reasons, the current approved screens are not widely considered by operators to be suitable for use in taxis and this has a negative impact on driver safety.

As a way of improving driver safety, there appears to be support in some areas of the industry for a purpose built taxi that includes a full safety screen, similar to New York taxis or London black cabs, to prevent assaults by passengers from the back seat.¹³

Police responses

A number of drivers told the inquiry that they feel their concerns about personal safety are not taken seriously by Victoria Police. These drivers feel that the police do not give appropriate attention to driver reports of fare evasion or 'less serious' anti-social criminal acts by customers. One driver based in a larger regional centre commented:

... I have found the police to be of no help in resolving these issues even though in many cases I have had a first name, pick up address and phone number which the [local] base had given me.¹⁴

One of the major suburban networks states:

Most taxi drivers would say that they have lost faith in Victoria Police and most of the time when an incident does occur it goes unreported because the drivers say it is a waste of time reporting it to the police because nothing will be done. Each week countless incidents go unreported as a result.¹⁵

Metropolitan drivers also complain about being 'expected' by the police to help clear intoxicated, often aggressive people from the streets:

... it is common practice for police in Melbourne to shove the survivors of street brawls or random drunks into the nearest taxi, and demand that the driver get them home. Taxi drivers are permitted (under the relevant regulations) to refuse to carry people who are excessively drunk or aggressive. However, putting this argument to the police often results in threats against the driver that he/she will be 'booked' or lose their rank position unless they cooperate.¹⁶

13 Dandenong Taxis, Submission to the Taxi Industry Inquiry, SS222, p.3

14 Colin Sharp, Submission to the Taxi Industry Inquiry, SS233, p.3

15 Dandenong Taxis, Op.Cit., p.3

16 Anonymous submission to the Taxi Industry Inquiry, SS10, p.1

History of taxi safety measures in Victoria

Considerable effort has been made in the last two decades to improve the safety of taxi drivers and passengers in Victoria.

In 1994, the Victorian Taxi Directorate (VTD) was established following a recommendation from the Crime Prevention Committee of the Victorian Parliament and given a specific brief to 'address concerns regarding the safety of taxi drivers and taxi passengers'.

In 2001, safety cameras were introduced for all taxis in the metropolitan, outer suburban and Geelong taxi zones. Cameras were installed subsequently in taxis in Bendigo, Ballarat, Shepparton and the Mornington Peninsula.

In August 2006, a taxi driver was killed after his taxi was commandeered by a passenger. This sparked anger within the taxi driver community and led to the creation of the Taxi Industry Safety Taskforce. The taskforce included representatives from the VTD, Victoria Police, the Victorian Equal Opportunity and Human Rights and Commission, the Victorian Multicultural Commission, Crime Prevention Victoria and the Victorian WorkCover Authority. In August 2007, following the taskforce's review of driver safety measures, the Victorian Taxi Safety Strategy was announced and included several safety measures to be rolled out progressively:

- Improved driver education – A new component of the driver accreditation training course specifically aimed at preventing and dealing with violent confrontation was developed in 2008 and is now completed by all new course applicants.
- Safety cameras – A full review of camera technology was undertaken, leading to new specifications for the next generation of taxi cameras in 2009.
- Driver protection screens – A trial of protection screens was established in 2007 to give drivers an opportunity to experience using in-cab screens. The strategy also provided for research into and the development of new protective screens for drivers and an extended protective screen trial to commence in 2009.

- Safe taxi ranks – A trial of safe taxi ranks was launched in 2007 at six taxi ranks in metropolitan Melbourne and regional Victoria to improve safety at night.
- Taxi driver safety pack – All active taxi drivers received a package of safety-related material, including a driver safety card and handbook.
- Driver support programs – All drivers were provided with information about the Victims of Crime and International Student Care Service support programs.
- A safer workplace – WorkSafe Victoria developed information packs for taxi operators, networks and drivers to educate and generate awareness around their occupational health standards and requirements.
- Driver support and representation – Support was provided to the Victorian Taxi Drivers Association to help establish them as a representative group for drivers.¹⁷

In April 2008, the near fatality of a taxi driver led to mass driver protest in Melbourne and calls for the Victorian Government to do more about driver safety, particularly at night. The Government responded by introducing two new safety measures later that year:

- The introduction of mandatory pre-paid fares between 10pm and 5am
- A subsidy scheme to encourage operators to make driver protection screens available to all drivers who want them. Currently, it is mandatory for protection screens to be made available between 10pm and 5am in the metropolitan, outer suburban and urban taxi zones.

Since 2008, a number of other programs have been introduced by the regulator and the Victorian Government to address driver and passenger safety. These programs, as well as current safety initiatives, are outlined in more detail in section 17.2.

¹⁷ Victorian Taxi Safety Strategy (VTD), accessed 2 April 2012 at www.transport.vic.gov.au/taxis/taxis-drivers/victorian-taxi-safety-strategy

What's happening in other places?

New Zealand

In 2008, Land Transport New Zealand, which regulates taxi services, undertook a survey on the perceptions of safety around taxi use. The *Perceptions of Personal Safety and Security Amongst Taxi Users* survey found that 82 per cent of people rated the overall safety and security of using a taxi as 'reasonably safe and secure' or 'very safe and secure'.¹⁸ Those surveyed also agreed with statements that the 'driver was a safe driver' (4.28/5) and 'I felt safe throughout the entire trip (4.4/5).

Since this survey was undertaken, New Zealand has introduced safety cameras in taxis.

London

According to customer satisfaction surveys conducted by the Public Carriage Office (Transport for London), taxi users consistently rate in-vehicle safety and security of London black cabs very highly (average score of 90 per cent between 2002/03 and 2008/09). The key distinction is the custom-made vehicles used as black cabs in London, which have inbuilt safety measures including a screen separating drivers from passengers and an automated door locking system.

Private Hire Vehicles (PHVs), or minicabs, are the main providers of night-time transport in London, especially outside the city where public transport options are fewer and it can be difficult to catch a black cab. A project called 'Safer Taxis at Night' was introduced by Transport for London in 2006 to raise awareness of the dangers of using illegal taxis and private hire vehicles. Coupled with enforcement measures, this campaign has significantly reduced the number of cab-related assaults and unlicensed drivers on the roads. Given this, PHV users rate in-vehicle safety and security of these vehicles highly (average score of 85.7 per cent between 2002/03 and 2008/09).

17.2. Regulating for safety

17.2.1. The regulatory framework

The complexity and fragmentation of the current regulatory environment means that safety matters relating to taxi and hire car services are not covered in a holistic way. References to safety measures and the safety requirements placed on industry participants are scattered across various pieces of legislation, licence conditions and accreditation requirements and are often highly prescriptive.

Drivers

As set out in chapter 13, the Commercial Passenger Vehicle Driver Accreditation Scheme¹⁹ specifies that applicants for driver accreditation must meet a number of conditions, including completing the driver training package, which contains specific units on using communication systems in a taxi, and complying with safety and security procedures.

Drivers who intend to drive a wheelchair accessible taxi (WAT) are also required to complete a unit in providing WAT services to people with a disability, which covers (among other things) how to safely secure a person in a wheelchair in a taxi.

Before granting a driver accreditation, the licensing authority undertakes specific checks to determine whether a person is suitable to become a commercial passenger vehicle driver. These requirements include police and medical checks and Working with Children checks. The licensing authority is also required to take certain actions to meet the public care objective, such as rejecting an application where the applicant has been found guilty of a category 1 offence.

Conditions may also be applied to a driver accreditation at time of issuing or renewing an accreditation or at any time during the course of an accreditation. This approach has been used in recent years to attempt to lift the standard of taxi drivers. For example, a new condition introduced on 1 January 2010 requires each taxi driver to be logged into their vehicle's EFTPOS terminal, using their Victorian Taxi Directorate (VTD)-issued smartcard, at all times while the taxi is in operation. This requirement aims to enable the VTD to establish which drivers are driving any taxi at any given time and to detect fraudulent behaviour and unlicensed drivers.

¹⁸ MM Research, (June 2008), *Perceptions of Personal Safety & Security Amongst Taxi Users*, Prepared for Land Transport New Zealand, p.1

¹⁹ See chapters 7 and 13 for details and analysis of the Commercial Passenger Vehicle Driver Accreditation Scheme

The *Transport (Compliance and Miscellaneous) Act 1983* also includes the public care objective, which states that the service provided by commercial passenger vehicle drivers must be provided with safety, comfort, amenity and convenience, and in a way that is not fraudulent or dishonest. This section is often used by the regulator in determining whether a person should continue to hold a driver accreditation.²⁰

Once accredited, the licensing authority can take a range of actions against a driver including disciplinary action and suspending or cancelling their accreditation. Recently, the VTD instigated weekly data matching against Victoria Police data to identify drivers charged or found guilty of criminal offences in the previous eight days. This process has resulted in 84 accredited drivers being identified with category 1, 2 or 3 offences.²¹

More broadly, drivers are subject to the requirements imposed on all Victorian drivers under the *Road Safety Act 1986*, such as not driving at speed or in a dangerous or careless manner.²² The Act also specifically requires taxi drivers to have a zero blood or breath alcohol reading.²³

Licence holders, operators and networks

The Taxi Industry Accreditation Scheme aims to extend the 'chain of responsibility' for service performance (including safety matters) to licence holders, operators and NSPs.²⁴ Under the scheme, NSPs are not permitted to offer a job to a taxi driver if it is likely to place the driver in danger. In practice, the protocols to manage this issue vary from network to network.

The *Transport (Taxi-Cabs) Regulations 2005* cover the specific requirements of in-cab equipment aimed at providing a safe environment for drivers and passengers. These requirements are highly prescriptive and reliant upon the licensing authority for approval.²⁵ In 2008, specific safety-related requirements were also introduced as part of the current licence conditions for taxi licence holders. This included the installation of driver protection screens and safety cameras (see section 17.2.6).

As part of their legislative obligations, NSPs must provide a system to track taxis within their fleets to assist in protecting drivers. Under the accreditation scheme's Business and Service Standards, all NSPs must provide a system that can communicate and respond to the activation of the duress alarm (emergency warning device) that is mandatory in all taxi-cabs.

Passengers

Currently, there are no specific legal obligations placed on passengers in relation to their own or their driver's safety (although the introduction in 2008 of pre-paid fares after 10pm is seen by many drivers as a measure with some positive safety implications). While some drivers have called for passengers to be required to show some form of identification either when they enter a taxi or at a drivers' request, this has not been supported more broadly within the industry.

Generally, actions taken to prevent or reduce passenger aggression towards drivers fall into one of three categories: industry self-regulation (such as addressing practices that irritate or upset passengers and developing safe taxi ranks), driver training (improving driver skills in managing aggressive and 'difficult' customers) or the introduction of in-cab protective measures (such as safety screens and duress alarms). These actions have had varying degrees of success in Victoria.

Vehicles

The *Transport (Taxi-Cabs) Regulations 2005* set out the specifications for taxi vehicles, including those related to safety, such as emergency warning devices and security systems, driver protection screens and vehicle age limits.

Taxi vehicle age limits are included in two forms:

- A maximum age limit at which vehicles can be introduced into service (2.5 years)
- A maximum age limit at which the vehicle must be removed from service (6.5 years for conventional taxis and 10.5 years for WATs).

In country areas, the maximum vehicle entry age limit does not apply and the maximum age limit for conventional taxis is extended to 7.5 years.

The industry accreditation scheme includes a safety requirement that vehicles be checked before every shift. In addition, the VTD carries out regular and random on-road vehicle inspections to verify that checks are being completed in line with accreditation requirements.

²⁰ Section 164 *Transport (Compliance and Miscellaneous) Act 1983*

²¹ Minister for Public Transport, 'Crackdown on rogue drivers', Media Release, 14 August 2011, accessed 2 April 2012 at www.terrymulder.com.au/_webapp_890706/CRACKDOWN_ON_ROGUE_TAXI_DRIVERS

²² Sections 64 and 65 *Road Safety Act 1986*

²³ Section 52 *Road Safety Act 1986*

²⁴ See chapter 4 for details of the Taxi Industry Accreditation Scheme

²⁵ See chapter 4 for a list of these requirements

17.2.2. Why regulate for safety?

The foundation of safety regulations is that without such regulations, certain problems will emerge that will undermine the effective operation of the market in which taxi services are supplied. Safety regulations have been put in place to:

- Ensure drivers have appropriate skills and experience to drive safely
- Ensure vehicles are maintained to acceptable standards – that is, standards that give the public confidence that taxis are safe vehicles in which to travel
- Ensure vehicle operators invest in devices that enhance the safety of drivers, such as cameras and protective screens (or mandate common standards for these devices)
- Reduce the level of incidents between drivers and passengers (such as assaults and episodes of fare evasion).

Without regulation, each of these factors might lead to reduced public confidence in taxi services and decrease the demand for these services, as well as also reducing the supply of drivers.

It is important that safety regulations, like other regulations, are subject to a rigorous analysis of the costs and benefits associated with their introduction. Having reviewed the array of safety measures introduced over the last decade, it is apparent to the inquiry that such processes have not always been followed, with priority sometimes given to reacting quickly to stakeholder concerns rather than developing and implementing a planned and holistic strategy for delivering safer taxi services for drivers and passengers.

While the desire of public policy makers to respond quickly, especially when faced with considerable public and media pressure, is very understandable, it does not always lead to good decisions. In addition, the absence of a considered, well-researched safety strategy can contribute to reactive decision making. An example of this is the introduction of protective screens and pre-paid fares, both of which were implemented quickly by the Victorian Government in response to a mass driver protest without any cost/benefit analysis being completed (see section 17.1.2).

17.3. Regulation, performance and reform

While the broad reasons for regulation identified in chapter 10 indicate that net benefits from regulation are at least possible, the inquiry has identified four issues with the safety-related regulations and conditions currently in force in Victoria:

- They impose considerable cost burdens on operators of taxis and hire cars
- They are highly prescriptive in identifying the proposed regulatory solution to the problem (or potential problem)
- In some cases, the requirements appear to extend beyond the 'market failure' rationale originally identified
- Evidence of benefits or likely benefits from the regulations is mixed, even some years after the initial introduction of the regulation.

In the following sections, the inquiry outlines its analysis of particular safety regulations and provides some recommendations for reform of the present system.

17.3.1. Driver accreditation and training

Case study

Taxi driver attempts u-turn on train tracks

In October 2009, a taxi driver who obtained his driver accreditation after being in Melbourne for less than three months attempted a u-turn across train tracks at Oak Park. The vehicle stalled and was hit by an oncoming train.

The two passengers and driver were able to flee from the vehicle seconds before the train hit the taxi. Media reports alleged that the driver was following the directions of his Sat-Nav unit and turned through a level crossing and drove along the train tracks for some distance before trying to turn back.

This example highlights the potentially serious public safety implications of allowing taxi drivers to gain accreditation without a thorough understanding of Australian driving conditions and local road networks.

Many taxi users have complained to the inquiry about drivers relying excessively on SatNav units to find their way around Melbourne, leading to unsafe, distracted driving and circuitous trips that result in excessive fares for the passenger.

A number of requirements are in place to ensure that a person who holds a driver accreditation is suitable to drive a commercial passenger vehicle. Nonetheless, submissions to the inquiry and customer satisfaction surveys indicate that there are still significant and widespread concerns about the practical driving skills of taxi drivers that lead to passengers feeling unsafe when travelling in a taxi. One taxi user told the inquiry:

*I also took [a taxi] in May 2010 that scared the life out of me....I asked [the driver] three times to get off his phone and I will guide him but he didn't seem to understand he just kept smiling. He ran a red light at Centre Rd whilst on the phone...*²⁶

This suggests that improvements are needed to improve the on-road experience of people seeking to be taxi drivers in Victoria. Currently, around 60 per cent of new applicants have held a driver's licence in Australia for less than 12 months.²⁷ As discussed in chapter 13, the inquiry believes that completing the Independent Driving Assessment (IDA) is no substitute for a minimum period of driving experience or local driving experience. The IDA does not demonstrate that the person has an understanding of the variables of local driving conditions or other cultural norms that might be the result of a minimum period of driving experience.

The inquiry also considers that driver training can be improved in a number of areas, such as oversight of training delivery and independent assessment of applicants, some of which will have an impact on both passenger and driver safety.²⁸

Inquiry finding

- ➔ The availability of the IDA (as an alternative to a minimum period of driving experience in Australia) can lead to inexperienced drivers being accredited, with implications for the safety of passengers and other road users.

17.3.2. In-cab safety measures

While safety cameras, driver protection screens and duress alarms were intended to improve safety for both drivers and passengers, concerns have been raised with the inquiry about their operation and effectiveness.

Safety cameras

Safety cameras have been mandatory in metropolitan, outer-suburban and Geelong taxis since late 2001. More recently, safety cameras have been installed in Ballarat, Bendigo, Shepparton and Mornington Peninsula taxis. From 1 July 2012, all taxis in the metropolitan, outer suburban, urban and country taxi zones serviced by 10 or more taxis are required to have safety cameras that meet new specifications as set out by the VTD.²⁹

The capacity of safety cameras approved for installation in Victoria's taxi fleet has improved greatly since their introduction. Today, the mandated safety camera system continuously captures images from within and outside the taxi for a period of 72 hours at a rate of at least one image per second. Camera systems must include a built-in GPS receiver and be capable of recording a significant amount of information against each image, including date and time, hiring status, whether a door is open and whether the ignition is on or off.

Images are stored in a secure environment within the taxi and overwritten after 72 hours unless downloaded. Images can only be downloaded by authorised VTD officers at the request of Victoria Police. Only the police can determine if an incident warrants a download. Taxi drivers, operators and NSP personnel do not have access to images collected by the safety cameras under any circumstances.

Standards and procedures have been developed by the VTD to regulate the management and use of cameras in taxis in the interests of people's safety and in accordance with the Information Privacy Principles set out in the *Information Privacy Act 2000*.

Safety cameras were considered in a regulatory impact statement (RIS) prepared for the DOT in 2008. This RIS found that the benefits of the cameras outweighed their costs, notwithstanding the view of the Victorian Privacy Commissioner that there was little evidence to confirm that the cameras were effective in increasing safety.³⁰

²⁶ Chris Laidlaw, Submission to the Taxi Industry Inquiry, SS287, p.2

²⁷ Based on information provided to the inquiry from the VTD

²⁸ See chapter 13 for a detailed examination of driver training and accreditation

²⁹ The inquiry notes that taxi operators who have purchased a new approved safety camera by 31 May 2012 have until 30 September 2012 to install the camera and will be deemed compliant during this period.

³⁰ Economic Associates (2008), Op. Cit., p.45 (quoting the review conducted by the Victorian Privacy Commissioner, available at: [www.privacy.vic.gov.au/privacy/web2.nsf/files/victorian-taxi-and-tow-truck-directorate-surveillance-cameras-in-taxis/\\$file/audit_03_06.pdf](http://www.privacy.vic.gov.au/privacy/web2.nsf/files/victorian-taxi-and-tow-truck-directorate-surveillance-cameras-in-taxis/$file/audit_03_06.pdf))

In 2010/11, 336 taxi camera downloads were taken as a result of alleged offences against drivers. Of these incidents, 175 involved assault, 176 theft and 54 damage to property;³¹ however, it is unknown to the inquiry how many of these downloads led to charges being laid. While these statistics are useful for highlighting trends in incidents, without further information on how camera images assisted police and the courts it is difficult to evaluate their benefits and, more specifically, how the new camera specifications have enhanced safety.

Despite concerns about a lack of evidence confirming the benefit of safety cameras, it appears that they are considered by drivers, operators, the VTD and Victoria Police as acting as a deterrent to anti-social behaviour. Market research conducted for the VTD showed that 78 per cent of drivers were satisfied with the operation of in-cab safety cameras, with the highest levels of satisfaction being experienced by drivers with less than one year's experience (96 per cent).³²

While safety cameras are now seen as an important safety tool, several concerns have been raised with the inquiry about their operation:

- The current camera specification is too prescriptive and unique to Victoria.³³ This is hampering supply of new cameras to the market. Prior to the release of the revised safety camera specification in 2009, there were around five approved suppliers of cameras in Victoria. Since the release of the new specification, only one of the original suppliers has achieved certification of a revised safety camera.
- Taxi operators, particularly in country areas, have concerns about the cost of the new cameras, telling the inquiry that a new camera fit-out costs around \$3,500. When first introduced, the cost of safety cameras was incorporated into the fare structure through a 0.94 per cent fare increase in December 2000. A fully passed-through fare increase of this magnitude equates to around \$1,400 in revenue and, in any event, operators claim that this increase has long since been absorbed.³⁴
- Arranging to have safety cameras downloaded following an incident can be time consuming for the taxi operator and driver, the police and the regulator, especially in places located far from Melbourne, such as Mildura.³⁵

The inquiry shares these concerns. In particular, \$3,500 is a significant cost impost on the industry and it is concerning that the set standard is so prescriptive that only one camera supplier has been able to meet it (an 'off-the-shelf' product required modification to meet the specifications).³⁶ This raises the question of whether the standard itself is appropriate.

According to the VTD, the draft camera specifications reflected previous work at a national level in relation to taxi cameras and advances in technology since the original taxi cameras were developed in the late 1990s. The specifications were released to existing camera suppliers, interested parties and the Victorian Privacy Commissioner for feedback and relevant changes were made before the finalised specifications and roll-out policy were endorsed by the Minister for Public Transport in June 2009. A new Regulatory Impact Statement (RIS) for the upgraded camera specification was not required to be completed and the inquiry is aware of no evidence of any other form of cost/benefit analysis having been undertaken before setting the new standard and determining in which taxis cameras are mandatory. Such an analysis would appear appropriate, especially given the suggestions made to the inquiry that much of the beneficial effects from cameras come not from the images they take, but from passengers being aware the cameras are present – in other words, a deterrence effect.

It is possible that there are country areas with less than 10 taxis that would benefit from cameras; it is equally possible that in other country areas (where cameras will be mandatory) this may not be the case. The inquiry considers that further work is required by the regulator to better understand the benefits and costs of installing safety cameras in country areas with 10 or more taxis before continuing with the roll-out.

In particular, the inquiry notes that the current situation (until 30 September 2012) with part of the taxi fleet operating with the 'old' cameras and part operating with the 'new' cameras, provides the regulator with a unique opportunity to test the additional benefits of the higher standard of specifications.

The inquiry also notes that there are currently a number of different camera specifications across the various Australian jurisdictions, with Victoria's specifications being second only to Western Australia's, and that similar cameras in other jurisdictions cost around \$1,000 to \$1,500. Development of a national standard for safety cameras could potentially reduce costs for suppliers and result in a more competitive market for the supply of cameras in Victoria.

31 Based on information provided to the inquiry from the VTD

32 Market Solutions (2006), *Taxi Driver Survey 2006 – Final Report*, Prepared for the Victorian Taxi Directorate, p. 27

33 Cameras are given type approval if they satisfy the specification set out by the VTD in a document titled *VTD Function and Performance Specification for a Taxi Safety Camera System 2009 (Version 3.0)*

34 The high cost of buying and installing a safety camera system means that many operators lease their cameras from NSPs

35 The impacts of installing safety cameras in country taxis are also discussed in chapter 16.4.4

36 The only safety camera that meets the 2009 specifications was approved by the VTD in October 2010

Inquiry findings

- ➔ Safety cameras are considered an important tool for both passenger and taxi driver safety, despite a lack of evidence on their effectiveness.
- ➔ The current safety camera specifications are highly prescriptive, which has limited suppliers and increased camera costs, and it is unclear whether these costs are offset by safety benefits to passengers and drivers, particularly in country taxi zones. Further work is required to measure the additional benefits of the higher standard of camera specifications before continuing with the new safety camera roll out.
- ➔ Opportunities should be fully explored to improve competition in the camera supply market and establish national safety camera standards.

Protective screens

Protective screens were introduced to reduce the risk of injury from taxi drivers being assaulted from behind by passengers in the rear seat of a taxi.

Screens must be offered to drivers of taxis driven between 10pm and 5am in the metropolitan, outer suburban and urban taxi zones. There are currently 15 models of protective screens on the market, which cost between \$1,000 and \$2,000 per vehicle, depending upon the make and model.

There is very little evidence available to accurately evaluate the ability of driver protection screens to prevent driver assaults. Research conducted by the Monash University Accident Research Centre (MUARC) for the VTD in 2010 found that, among drivers who use them, protection screens have a positive impact on perceptions of safety, with 70 per cent of drivers reporting they feel safer when using the screens at night. However, a substantial minority (38 per cent) of drivers claimed they disliked or strongly disliked the screens. Further, 12 per cent of drivers reported being physically assaulted inside the taxi when a screen was in place and three per cent reported a violent incident where the screen protected them.³⁷

Camera download analysis appears to support the effectiveness of the screens to some degree: in 2010/11, in 76 per cent of incidents involving assault, no screen was fitted.³⁸ This compares to a total usage rate for screens of 32 per cent,³⁹ indicating that incidents were over-represented in taxis without screens (68 per cent of taxis).

MUARC also surveyed drivers who had driven before and after the introduction of screens and found that their support for the screens fell from 65 per cent to 51 per cent. This appears to indicate that, despite the safety benefits, screens present practical difficulties. In fact, 54 per cent of drivers surveyed had experienced problems with the screens, including that they were uncomfortable, impeded visibility when reversing and restricted communication with passengers.⁴⁰

The MUARC study also reported some operators stating that the use of the screens was 'incompatible' with 'non-standard' taxi services, such as those providing a premium service and those regularly servicing hearing impaired customers or those with special communications and physical requirements.⁴¹

Overall, the MUARC study found no evidence in favour of driver protection screens, although it noted that data potentially existed that could assist in quantifying the benefits of the screens.

As indicated above, the use of screens in taxis in Melbourne remains relatively low (32 per cent). Various reasons were given to the inquiry for this low usage rate. Driver dissatisfaction with the screens is one obvious factor. The inquiry also heard anecdotal evidence of night-shift drivers being intimidated into signing documents saying they don't want to use a protective screen. Taxi users also report being told by drivers that the operator of their vehicle has 'refused' to install a screen.

The inquiry's analysis of protective screens indicates that they are problematic. Protective screens appear to have a small influence on safety, with a significant proportion of drivers (38 per cent) disliking the screens and support for the screens deteriorating. The evidence of the screens' effectiveness seems mixed at best, with cameras being seen by most industry participants as the more important safety tool. The screens themselves appear to cause a range of operational problems for drivers and operators, and restrict the use of different kinds of vehicles.

³⁷ Monash University Accident Research Centre (2011), *Reducing violence against taxi drivers – Evaluation of the Driver Protection Screen and Mandatory Pre-paid Fares Initiatives*, Report to the VTD, Melbourne, pp.7-8

³⁸ Based on information made available to the Taxi Industry Inquiry by the VTD

³⁹ MUARC (2011), Op. Cit.

⁴⁰ Ibid., p.32

⁴¹ Ibid., p.8

The inquiry is aware of international evidence that screens can be useful in increasing driver safety. However, as noted by the NSW Inquiry into Taxi Safety,⁴² there are certain specific factors that explain the importance of these screens: in the United States, it is the high level of gun crime, while in London, partitions are factory-fitted as part of the standard black cab.

This suggests to the inquiry that if government and industry wish to persist with the screens, they need to be implemented properly as part of an overall vehicle re-design, rather than a retro-fitting.

Duress alarms

Emergency warning devices (also known as duress alarms or M13 alarms) are mandatory in all Victorian taxis.⁴³ All primary NSPs are required to have a system that is capable of receiving and responding effectively to the activation of a duress alarm, as well as keeping specific information about each occasion when an alarm is activated. However the regulations do not require NSPs to respond to a duress alarm in any particular way or to achieve any particular outcome or performance standard.

While each NSP manages alarm activation in a different way, the large metropolitan NSPs usually follow a procedure that, once the alarm is activated, gives the driver a direct line to the NSP and triggers the GPS unit(s) in the cab to show the exact location of the taxi. It is the responsibility of the NSP to take any action it considers appropriate, such as alerting the police. Once an alarm has been activated, it must be reset by the NSP.

The specific cost of this requirement is not clear, as all NSPs offer these systems as part of their broader service offering to taxi operators. The physical costs of such equipment may be relatively low given that dispatching equipment already contains a GPS unit and direct communication lines to the network; however, there will be some additional staffing costs involved in responding to alarms.

The benefits of the requirement are difficult to establish. The inquiry heard widespread support for duress alarms and communication systems that enable a response to the alarm. Commentary and criticism of alarms tends to focus on how these systems operate in practice, not the requirement for an alarm system.

In 2010, there were approximately 4,000 duress alarm activations in the metropolitan area. Of these, around 85 per cent were recorded by the NSPs as false activations. Records from one major taxi network examined by the inquiry suggest that the procedures followed by NSPs and Victoria Police are less than satisfactory in terms of safety outcomes for the taxi driver:

- In some cases, where the NSP telephone operator was unable to contact the taxi driver by mobile phone following an alarm activation it was recorded by the NSP as a false activation.
- In most cases, the police were contacted only if the NSP telephone operator was satisfied there was a serious emergency. While this is understandable given the number of false alarm activations, it can create potentially dangerous delays where an operator cannot confirm whether the activation is genuine. The inquiry is concerned that, in some cases where the operator is unable to contact the driver, the operator simply assumes it is a false alarm and does not contact the police. This could prove very dangerous where a driver has been silenced by an attacker or is being assaulted beyond the range of the radio.
- In cases where the police were called by the NSP, it took up to 20 minutes for the NSP to contact the police following the duress alarm activation; at other times, calls to the police were made immediately (for example, where screaming was heard). In some instances, the taxi driver was successful in contacting police before the NSP telephone operator.
- In some instances, a global message was sent out by the NSP to other drivers to assist the driver in distress; this was usually done in conjunction with contacting the police.
- NSPs sometimes were required to update the police about the location of the vehicle, as the driver continued driving the vehicle after the alarm was activated. This caused further delay in assisting the driver.
- Some cases show that the NSP telephone operators were unable to communicate effectively with the driver following alarm activation. In one instance, the operator did not request police assistance despite the driver's request to do so.
- In one case where police were contacted by the NSP, the police responded that no police were available to assist. The police suggested the driver attend a police station.⁴⁴

⁴² Taxi Industry Safety And Security Taskforce Final Report (December 2007), Ministry of Transport, Sydney, p.38

⁴³ Reg. 14 *Transport (Taxi-Cabs) Regulations 2005*

⁴⁴ Based on information provided to the Taxi Industry Inquiry by a major metropolitan taxi network service provider

Analysis of alarm activations suggests that there are failures in the management, operation and record-keeping of the system by NSPs. It is possible that NSP staff either are not adhering to their own procedures or do not have the skills or training to be able to respond appropriately in emergency situations. It should be noted that NSPs are not required, or even resourced, to deal directly with the emergency situation itself; rather, they provide the communication system that enables a response to emergencies. The delays and inconsistencies identified by the inquiry suggest that drivers can take no great comfort that the alarm system will ensure a rapid response in an emergency.

Given the importance of the alarm system in aiding a driver in an emergency – and the claim made by some industry participants that the system is an important reason to retain mandatory affiliation of all taxi operators with a network service provider – the inquiry finds it surprising that there are no clear safety outcomes or requirements regarding the emergency duress alarm or the management of the system in regulations or through the taxi industry accreditation scheme.

While the combination of safety regulations and mandatory affiliation requirements mean that NSPs have become responsible for emergency alarm responses, it has been suggested to the inquiry that security companies not associated with NSPs could manage these systems as well, if not better, than the networks. Opening up the duress alarm response service to more competition, underpinned by performance based standards, may achieve a more consistent approach to emergency responses and enable taxi operators to choose between suppliers without impacting driver safety.

Inquiry finding

- ➔ It is clear that improvements can be made to the emergency duress alarm system. In particular, performance based guidelines would be useful in highlighting what is expected from the system. Consideration should also be given to allowing security companies to provide emergency duress systems.

Pre-paid fares

In October 2008, pre-paid fares became mandatory between 10pm and 5am to combat fare evasion and remove the possibility of conflict arising when drivers ask passengers for payment. At the start of the trip, drivers estimate the fare and take this amount as a deposit; any difference from the metered fare is settled at the end of the trip.

The measure was accompanied by an extensive campaign to notify the public of the new requirement.

There is no concrete data available on the effectiveness of this measure. Fare evasion in itself does not typically lead to a safety camera download; only 20 cases of fare evasion were subject to a download in 2010/11. In these cases, whether or not the vehicle displayed a pre-paid fare sticker was recorded, but this only shows that fare evasion was split evenly between vehicles that did and did not display a sticker.

Pre-paid fares were examined as part of the MUARC study, which found that driver support for the initiative was very high, at 87 per cent. While 14 per cent of drivers always required pre-payment, 16 per cent usually did and 47 per cent only required pre-payment sometimes. Drivers reported using their discretion when deciding to require pre-payment based on their assessment of the passenger's likelihood of disputing or evading the fare and the length of the trip. Just over 80 per cent of drivers reported feeling safer when using pre-paid fares and 88 per cent believed the initiative had resulted in less fare evasion (no driver responded that pre-paid fares increased fare evasion).⁴⁵

It is important to note that as the 'mandatory' aspect of pre-payment is subject to the driver's discretion, a commonly reported problem is that passengers became angry or aggressive when asked to pre-pay. While 88 per cent of drivers in the MUARC survey believed that mandatory pre-payment had resulted in less fare evasion, 26 per cent believed it had resulted in more arguments over fares.

Representatives of the major metropolitan networks considered that the pre-paid fares initiative had mixed effects – in some cases, causing more problems than it fixed. However, they were inclined to retain the initiative.

Inquiry finding

- ➔ The introduction of mandatory pre-paid fares has been moderately successful and should be retained.

⁴⁵ MUARC (2011), Op. Cit. p.40

17.3.3. Passenger-related safety measures

Case study

City of Melbourne's Safe City Taxi Rank Scheme

Melbourne's Safe City taxi rank scheme aims to help people get home safely and quickly late at night. Safe City taxi ranks provide a safer environment for passengers and drivers, and encourage people to wait at ranks rather than hail a taxi in the street.

Safe City taxi ranks are located in popular pedestrian areas and have improved lighting and signage. Each rank is staffed by security personnel wearing distinct, easily identifiable uniforms. Ranks are monitored by security cameras on Friday and Saturday nights, during special events (such as the Melbourne Cup) and New Year's Eve.

Current Safe City rank locations are Flinders Street Station, 50 Bourke Street and two ranks each along King and Queen Streets. Melbourne City Council has seven additional Safe City ranks planned over the next four years.

In December 2011, the council commenced trialling a late night 'mega' rank in Queen Street between midnight and 5am on weekends to attempt to disperse people safely and more efficiently from the city's nightclub zone.

A number of initiatives have been taken by government and industry to reduce the potential for conflict between drivers and passengers.

Safe Taxi Ranks

Safe taxi ranks are places where people can wait safely for a taxi rather than hailing one from the street. These ranks are often equipped with lighting, CCTV or security personnel and are usually located near major entertainment or late night venues.

A number of local councils have established safe taxi ranks in their local areas. Ranks are often funded by councils, using Victorian or Commonwealth Government grants, or by agreement through a 'liquor accord' with local entertainment venues and taxi companies contributing funds.

In December 2007, a 12-month trial of five safe taxi ranks (three in inner Melbourne and one each in Ballarat and Bendigo) was launched as part of the Victorian Government's Taxi Industry Safety Strategy. The main objectives of the trial were to improve perceptions of safety for taxi drivers and passengers using taxis late at night in entertainment precincts and to improve the amenity of these precincts, disperse crowds in a timely way and reduce crime in the immediate vicinity of the rank. Funding for the trial covered a range of aspects including staffing, infrastructure and promotion of the rank.

In 2009, the Government launched a four-year, \$4 million Taxi Rank Safety Program for local councils to improve the safety, quality and amenity of taxi ranks in areas of high usage and late night precincts for the benefit of taxi drivers and passengers. This announcement followed a review of the safe taxi rank trial conducted by MUARC, which highlighted the need for additional infrastructure at busy taxi ranks. The review also revealed that effective safe ranks increase the perception of public safety in the vicinity of the ranks and deliver a number of benefits:

- Safer places for people to wait for a taxi
- Safer places for taxi drivers to pick up passengers
- Coordinated and timely dispersal of crowds of people from late night entertainment precincts (especially where security staff or taxi marshals are used)
- Support from stakeholders including local councils, police, taxi industry and late night venues
- Higher taxi occupancy rates.⁴⁶

Under the Taxi Rank Safety Program, grants are available for infrastructure upgrades such as closed circuit television, improved lighting, pedestrian barriers, weather shelters, signage, seats and modifications to curbing or road treatments. Ongoing costs, including security and marshalling personnel, are not covered by the program. As discussed in chapter 16.4.4, local councils in regional areas that met with the inquiry raised this as an issue, as the costs of providing staffing are significant and beneficiaries of the ranks often do not contribute to their operation and maintenance.

⁴⁶ Monash University Accident Research Centre (MUARC) (2009), *Evaluation of the safe taxi rank trial in the cities of Ballarat, Greater Bendigo, Port Phillip and Yarra (Richmond and Fitzroy)*, Report to the Victorian Taxi Directorate, Department of Transport, Melbourne, p.17

The MUARC review suggested the development of statewide safe taxi rank guidelines that include a standardised rank design, security arrangements and taxi management/ride allocation procedures, and provide guidance on ongoing funding options. These aspects are important in the successful operation of safe taxi ranks and need to be considered in the early stages of planning for a rank to ensure its ongoing success. As a starting point, the existing VicRoads Taxi Rank guidelines (November 2005) could be updated to include requirements for safe taxi ranks.⁴⁷

There is also an opportunity for safe taxi ranks to be used as a coordination point for new late night transport options such as flat fare, share ride services (similar to the Brisbane NightLink service), shuttle taxis from Melbourne CBD to popular nearby locations or suburbs, and demand responsive taxis to coordinate with NightRider services in the outer suburbs.⁴⁸

Inquiry findings

- When effective, safe taxi ranks improve perceptions of safety and are generally well supported and well utilised by passengers and taxi drivers.
- Improvements have been made to taxi ranks across the state to make them safer through the Victorian Government's Taxi Rank Safety Program and this program should continue.
- Guidelines on establishing and operating safe taxi ranks should be developed, including staffing and funding options. The existing VicRoads Taxi Rank guidelines could be updated to incorporate new safe taxi rank guidelines.

Education and awareness campaigns

A number of industry participants told the inquiry that they believe the industry has done almost as much as it can to improve safety and that more needs to be done to tackle anti-social behaviour, especially around late night venues. For example, the Victorian Taxi Association (VTA) believes attention should now turn to addressing 'social factors', such as drug and alcohol abuse and 24/7 liquor licensing arrangements, which present risks to taxi drivers, particularly at night. The VTA also suggests that engendering greater respect for taxi drivers may help to address these issues:

The reactive measures that have been put in place to protect drivers are thorough and broadly appropriate. The issue now is to generate more respect for taxi drivers in the community and for the Government to work with the industry to achieve this goal.⁴⁹

Both government and the taxi industry in Victoria have undertaken education and awareness campaigns designed to reduce the risks to drivers from anti-social passenger behaviour.

In late 2011, the VTD launched a Respect Your Cabbie campaign to educate passengers that anti-social behaviours, including fare evasion and assault, are illegal and will not be tolerated. The campaign included posters during Spring Racing Carnival and Christmas and a YouTube video featuring a taxi driver. A similar campaign was launched by the VTA last year using YouTube videos to put a 'human face' to taxi drivers.

Inquiry finding

- There is a role for the industry regulator and the taxi industry to undertake education and awareness campaigns about taxi driver- and passenger-related safety issues to promote better taxi experiences.

17.3.4. Vehicles

The main criticisms of taxi vehicles raised with the inquiry relate to accessibility, comfort, space and other design features. In relation to vehicle safety, the main concerns identified by the inquiry are the regularity of vehicle inspections carried out by the VTD and the age of vehicles permitted to operate as taxis.

Vehicle age limits

A key reason for imposing vehicle age limits is to improve the safety of the vehicle fleet. Vehicle age restrictions also often aim to achieve better environmental outcomes: new vehicles tend to have better fuel economy and lower emissions levels.⁵⁰ The rationale for this kind of regulation is that operators may use vehicles older than these minimum standards to reduce their costs, but that this may come at some cost to consumer and driver safety.

⁴⁷ MUARC (2009), Op. Cit., p.8

⁴⁸ A number of submissions to the inquiry called for a wider range of safe late night transport options

⁴⁹ VTA, Submission to The Taxi Industry Inquiry, SS60, p.3

⁵⁰ For further discussion on these issues see chapter 18

In its submission to the inquiry, the VTD urges more stringent age limits for taxis, with the main reason being that:

...taxis over five years old are so regularly found to be unsafe or poorly presented that their suitability for ongoing taxi work is questioned.⁵¹

The VTD notes that a case can be made for basing an operating limit on vehicle kilometers rather than on vehicle age. However, it is concerned about the potential for fraudulent manipulation of vehicle odometers.

Further, the VTD notes that an additional benefit of newer vehicles is that they have more advanced safety features, such as stability control and side curtain airbags. The VTD also recognises that imposing more stringent age limits will increase operators' costs.

In contrast, a submission from a large fleet operator argues for less stringent age limits, particularly a relaxation of the requirement that vehicles introduced into service be no older than 2.5 years.⁵²

Neither of these submissions – or any others received by the inquiry – provide details on the costs of the current restrictions or on the cost savings that might be expected under alternative arrangements.

There is little consistency in the arrangements adopted by other Australian states. For example, New South Wales imposes no maximum age limit at which a vehicle can come into service. In Western Australia, vehicles can be no older than five years when introduced into service and no older than eight years as an operating taxi.

It appears to the inquiry that vehicle age limits are a relatively poor indicator of vehicle quality and safety. Taxis often travel more than 150,000km in a year, meaning that a four year old taxi might have travelled over 600,000km. A poorly maintained vehicle driven for such distances will be less safe than an older vehicle that has driven less kilometers and been better maintained. It seems that more frequent and rigorous vehicle inspections are more likely to ensure vehicle quality and safety than a relatively arbitrary age limit.

Inquiry finding

→ Vehicle age limits impose some costs on operators, but the inquiry does not have enough information to determine how costly these regulations are likely to be. Vehicle age limits may not be a good proxy safety indicator in some cases.

17.4. Improving safety – addressing the gaps

As noted above, a number of measures are already in place to promote safety outcomes for drivers and passengers, with varying levels of effectiveness. However, there are also some significant gaps in the current system that need to be addressed.

17.4.1. Driver fatigue

Many of the inherent features of taxi driving (long working hours, working at night and driving for extended periods of time) are also causes of fatigue. Taxi drivers spend many hours a day behind the wheel, with approximately 59 per cent of taxi drivers working an average of 50 hours or more per week and approximately 27 per cent of drivers working an average of six or seven days a week.⁵³ Research suggests that fatigue is the primary cause of about 20 per cent of all motor vehicle crashes and that being awake for 17 hours is the equivalent to a blood alcohol reading of 0.05, doubling the risk of having an accident.⁵⁴

Between 2005 and 2010 in Victoria, there were 1,731 crashes involving taxis resulting in 10 deaths, 578 serious injuries and 1,075 other injuries.⁵⁵ It is not clear how these figures compare to the incidence of accidents for all vehicles; however, a NSW study suggests that taxis are approximately 4.5 times more likely to be involved in a fatality than other vehicles.⁵⁶

51 VTD, Op. Cit., p.12

52 Taxilink, Submission to the Taxi Industry Inquiry, SS254b, p.1

53 ABS (2003), *Paid work: Longer working hours*, Australian Social Trends, 4102.0

54 The Age (21 August 2010), 'Sleep-deprived cabbies are driving themselves to death'.

55 Based on information sourced from the VicRoads CrashStats database, accessed 2 April 2012 at www.vicroads.vic.gov.au/Home/SafetyAndRules/AboutRoadSafety/StatisticsAndResearch/CrashStats.htm

56 Staysafe 36 (2007), as cited in Rowland, B.D., Freeman, J.E., Davey J.D. and Wishart, D.E. (2007), 'A profile of taxi drivers' road safety attitudes and behaviours: Is safety important?', Proceedings of the 3rd international Road Safety Conference, Perth, Western Australia

Drivers tend to be more at risk of fatigue when working at night during traditional sleeping hours and at the end of shifts. One study found that a relatively high number of taxi accidents occurred between 2am and 4am on weekends, at times when drivers had often been working for up to 11 hours.⁵⁷

Some taxi users who completed the inquiry's taxi services survey report experiences where taxi drivers have fallen asleep while driving:

My worst taxi experience was when the driver fell asleep while driving after working a long shift [and] played his music very loud (which I realised later was to keep him awake).

Driver falling asleep and having me continually chat to keep him awake.

Other passengers call for fatigue to be addressed:

Make them stop using each other's cars and working long hours and falling asleep while driving.

Would aim to reduce length of shifts for drivers as fatigue must be an issue, leading to driver conduct and skill issues.⁵⁸

Writing in The Age newspaper, Professor Russell Gruen described a colleague's account of a Melbourne taxi driver falling asleep at the wheel:

Scary ride – as we were approaching the airport turnoff there was stationary traffic ahead. Driver didn't notice until I shouted (too late). When he braked, we narrowly missed the stationary traffic, veered into the central scrub and then back across the highway to end up facing the wrong way on the hard shoulder. Miraculously, we didn't hit anything. I think he must have fallen asleep. Was very scary – but I am alive and well.⁵⁹

In other industries, such as healthcare, airlines and heavy vehicle transport, fatigue is managed through mandated or regulated hours and log books. However, this is not the case with the taxi industry. In Queensland, taxi drivers are required by legislation not to operate a taxi if fatigued and taxi operators are required to take reasonable steps to ensure the driver meets these obligations.⁶⁰ In the Northern Territory and Western Australia, industry-supported codes of practice have been introduced for fatigue management. These codes of practice provide guidelines for taxi operators, networks and drivers on how to manage fatigue and set out recommended work/break patterns. Currently, there is no equivalent fatigue management regime specific to the taxi industry in Victoria.

Fatigue management also involves addressing the reasons causing the risk-taking behaviour that leads to fatigue. According to the VTD, the average shift length for taxi drivers is 9.5 hours; however the inquiry has heard of drivers working longer than the traditional 12-hour shift, sometimes for several days in a row. Possible explanations for this behaviour include having to earn sufficient money to pay operators for the use of the taxi or simply to make enough money to make ends meet. Other reforms aimed at improving driver income and working conditions may help to eliminate this behaviour and alleviate the risks associated with driver fatigue.

Consideration should be given to a risk-based approach towards fatigue management, rather than a prescriptive approach such as setting a maximum shift length, with appropriate break times included to address the working hours of part-time drivers and those who have a second job or study commitments. The inquiry notes that WorkSafe Victoria has guidelines for fatigue management in the workplace and VicRoads has guidelines for heavy vehicle drivers. Further, the VTD has developed draft fatigue management guidelines for the taxi industry that outline recommended work and break hours for drivers and how operators and NSPs can support fatigue management in the workplace.

57 Dalziel, J.R. and Job, R.F.S. (1997), *Taxi drivers and road safety – A report to the Federal Office of Road Safety*, p.30, accessed 2 April 2012 at www.infrastructure.gov.au/roads/safety/publications/1997/pdf/taxi_drivers.pdf

58 Comments from Taxi Industry Inquiry 2011, Findings from the 'Survey about Victoria's Taxi Services for the Victorian Taxi Industry Inquiry', unpublished

59 The Age (21 August 2010), Op. Cit.

60 Transport Operations (Passenger Transport) Standard 2010

As noted in chapter 13, new national occupational health and safety laws are proposed to be introduced under which taxi drivers (whether bailees, independent contractors or employees) will be owed a general duty of care by any person that has engaged them in their business or undertaking – although it is uncertain whether or when these laws may apply in Victoria. Further, the inquiry’s proposed new Driver Agreement will include a minimum number of unpaid rest breaks between shifts and work periods.

Inquiry findings

- ➔ Driver fatigue is a serious problem with significant safety implications, but there is little information available to assess how widespread the driver fatigue problem is within the Victorian taxi industry.
- ➔ Desirably, the Victorian taxi industry should be adhering to a fatigue management regime similar to that used in other industries where workplace fatigue poses potentially serious risks. Consideration should also be given to measures such as education and training to make industry participants aware of the importance of fatigue management.
- ➔ A more detailed study needs to be undertaken to assess the benefits and costs of imposing further regulation of driving hours for taxi drivers.

17.4.2. Child safety in taxis

The Victorian Child Safety Commissioner, Kidsafe Victoria and the Royal Children’s Hospital Safety Centre and others have urged the inquiry to recommend that taxis no longer be exempt from regulations that require children up to the age of seven to be restrained in an approved child restraint or booster seat. These organisations believe this exemption is placing children travelling in taxis at an increased risk of serious injury or death and discourages the use of taxis by families with small children.

Changes to the Australian Road Rules regarding the use of child restraints for children under seven years of age were introduced in 2009 to reduce fatalities and serious injuries as a result of young children moving from dedicated rear-facing child restraints to adult seatbelts. The RIS accompanying these changes highlighted that restrained children are better protected in a crash than children using no form of restraint and that children using adult seatbelts are significantly increasing their risk of serious injury compared to children using size-appropriate restraints.⁶¹ As a result of these changes, children less than seven years of age travelling in a motor vehicle in Victoria (other than a bus or motorbike) must wear a suitable approved child restraint or seatbelt or sit on a booster seat.⁶²

However, when these changes were introduced, exemptions from the mandatory use of child restraints that already existed for taxis and public minibuses were retained. Currently in Victoria, taxi operators do not have to provide child restraints or booster seats, but are required to have at least one anchor fitting in the vehicle for passengers to supply their own. Children under one year old do not have to use a child restraint in a taxi, but they must travel in the back seat; children aged one year and over must be seated in their own seating position in a taxi, with their own properly fastened seatbelt if no suitable child restraint or booster seat is available.⁶³ A supplementary road rule applies in Victoria that requires the driver of a taxi to ensure that a child passenger aged one year or older but less than seven years is be restrained by a seatbelt if no child restraint or booster seat is available.

61 Australian Road Rules Amendments 2007 – Regulatory Impact Statement. www.ntc.gov.au/filemedia/Reports/ARR7thAmendPackRISNov07.pdf

62 Road Safety Road Rules 2009 (Victoria). The rules also specify different types of restraints that must be used depending upon the age and weight of the child

63 Child restraints, VicRoads website www.vicroads.vic.gov.au/Home/SafetyAndRules/RoadRules/ChildRestraintsRules.htm

In December 2011, the national Standing Council on Transport and Infrastructure approved amendments to the Australian Road Rules to bring other states in line with the supplementary Victorian road rule. In the RIS accompanying these changes, the National Transport Commission (NTC) noted that the Rules provide an exemption from the requirement for child passengers to be restrained in a child restraint in taxis because taxis may be required to carry children without notice and, in these instances, it is impractical to require all taxis to carry dedicated suitable child restraints and that doing so may restrict general use of the taxi (such as space for carrying luggage). The NTC also suggested there may be hygiene issues associated with sharing restraints and storage when not in use. Further, the NTC stated it could not locate any information that shows how many children of this age group are carried in taxis or public minibuses or how many taxis or public minibuses do not have approved child restraints.⁶⁴

Those supporting the removal of the exemption for taxis from the mandatory use of child restraints acknowledge that it will impose additional costs on the industry and have suggested undertaking a trial of child restraints in taxis to determine the most cost-effective way of addressing the issue, such as fitting capsules to the roof of taxis to store the child restraints or installing supplementary loop straps (similar to those used in the airline industry) that attach to the existing seatbelt, allowing a child to be restrained against an adult passenger.⁶⁵

It should be noted that some taxis and hire cars in Melbourne do provide child restraints. One hire car operator told the inquiry:

*The use of baby seats in hire cars is an indication of the commitment to providing a safe service for their clients. Whilst hire cars are exempt from having to use baby seats many offer a baby seat as part of the service, and this makes their clients feel safer.*⁶⁶

The issue of whether child restraints improve child safety is not in question. Removing the exemption for taxis and hire cars from the mandatory use of child restraints should occur. This change will enable parents of young children to continue to use their own child restraints in taxis and hire cars if they choose or have the option to use one provided by the industry. The costs that this will impose on taxis and hire cars are not large and the industry should be responsible for managing the associated issues with how to carry and clean child restraints. Consumer-focused taxi and hire car businesses will see an opportunity to provide a service that meets consumer needs.

Inquiry findings

- ➔ The current regulations regarding child safety when travelling in a taxi are considered inadequate by child safety experts and concerned parents and may deter some people from using taxis.
- ➔ The inquiry sees little reason for exempting taxis and hire cars from the general regulatory requirements relating to child safety restraints in vehicles.
- ➔ The industry should be responsible for making arrangements to comply with these requirements and should be given a suitable period of time to do so.

What's happening in other places?

New South Wales

Under regulations, authorised taxi network providers must ensure that at least 10 per cent of taxis in their fleets carry child restraints that are no more than 10 years old. In fleets with less than 10 taxis, at least one of the taxis must carry a child restraint.

Australian Capital Territory

In the ACT, Aerial Taxis store baby capsules at Canberra Airport and at their call centre. Approximately 10 per cent of the fleet offer a baby capsule service for a \$4.50 fee.

64 Australian Road Rules Amendments 2010 – Draft Regulatory Impact Statement www.ntc.gov.au/filemedia/Reports/ARR9thAmendPackageRIS.pdf

65 See Ultimate Media Group, Submission to the Taxi Industry Inquiry, SS127, and Anonymous submission to the Taxi Industry Inquiry, SS362

66 Anonymous submission to the Taxi Industry Inquiry, SS111, p.10

17.4.3. Data and information collection

At present, available data and information relating to in-cab incidents is inadequate. The information NSPs are required to collect in relation to alarm activations and other safety-related matters is limited and there are few other avenues for collecting information about incidents involving taxi drivers and passengers.

The 2010 MUARC research suggested introducing ‘flags’ on Victoria Police data collection systems and hospital surveillance systems to identify incidents involving taxi drivers and passengers.⁶⁷

Provisions were introduced under the taxi industry accreditation scheme to give the VTD the power to compel a NSP to document how they ensure driver and passenger safety and for operators to document their safety, fault repair and maintenance schedules. However, in practice these powers have not enabled the VTD to gather the information it needs to identify deficiencies in the industry’s safety practices (beyond vehicle safety/maintenance standards) and to act on this information to improve safety for taxi drivers, passengers and the public.

Inquiry finding

➔ A range of data around industry safety could be captured under an outcomes-based safety regime, including passenger instigated injuries, driver instigated injuries, public instigated injuries, emergency response times, successful prosecutions and more. Very little of this data is currently available in any meaningful or useful form.

17.4.4. The focus of regulation and the regulator

Currently, the regulations covering a range of safety-related matters within the taxi industry involve highly prescriptive specifications about particular pieces of equipment and their operation. The regulator is heavily involved in several safety-related areas of taxi services, with in-cab safety equipment such as safety cameras, protection screens, emergency warning devices and boot lock release devices requiring approval by the regulator.

This often results in substantial costs for the industry, despite there being little in the way of verifiable data about the safety benefits accruing to drivers and passengers. It also constrains the flexibility of the industry to respond quickly to changes in circumstances. However, the inquiry notes that many of these regulations and conditions have been imposed to ensure the uptake of safety measures by the taxi industry, particularly where the industry has not been proactive in implementing such measures.

The inquiry’s view is that minimum regulatory requirements are:

- GPS tracking and an emergency response system for each taxi
- Requirements around the information collected about safety systems and emergency responses (such as recording the details around emergency situations)
- Requirements relating to minimum standards and/or national rules and standards for safety-related equipment
- Requirements to ensure that the regulator has the necessary information and industry-related data to provide adequate industry oversight in relation to safety.

It is not possible for government or the regulator to ensure complete safety in the taxi industry. However, there is a role for the regulator in promoting best practice safety measures, undertaking research on safety outcomes and incidents, and collecting and collating data on safety-related matters.

⁶⁷ MUARC (2011), Op. Cit., p.12

Inquiry findings

- ➔ Safety-related regulations add cost to the industry. Therefore, regulators must be careful to ensure that these interventions are outcomes-focused, effective and have properly considered the costs and benefits. Intervention should be the minimum required to ensure safe vehicles, safe drivers and safe passengers.
- ➔ The current approach to safety regulation, in particular driver protection screens and safety cameras, is overly prescriptive and ill-suited to accommodating future developments and advances in technology. Moving away from this model towards a risk-based, outcomes-focused model would give the regulator and the industry greater flexibility in responding to safety issues.
- ➔ Regulatory impact assessments should be undertaken as a mandatory requirement before implementing future safety initiatives.

Chapter 18.

18. Sustainability

Key messages

- Transport is the second largest producer of greenhouse gas (GHG) emissions in Victoria after stationary energy production, and road transport accounts for nearly 17 per cent of Victoria's greenhouse gas emissions.
- While the overall impact of taxis and hire cars on transport emissions is relatively small, they can play an important part in the promotion of a sustainable transport system.
- Taxi and hire car fleets can reduce emissions through the use of more fuel-efficient and alternative fuel vehicles, by the better matching of demand and supply, and through 'green driving' practices.
- Incentives have been provided in Victoria for taxis and hire cars to use hybrid vehicles, but take-up has been very low. More can be done to educate operators about the fuel savings associated with hybrid vehicles, as well as promoting more environmentally sustainable behaviour and practices by taxi and hire car drivers, operators and networks.
- As high profile, high use vehicles, taxis can help to demonstrate the benefits of alternative fuel vehicles and more sustainable driving practices, as well as promoting Victoria's environmental credentials. They are also an important niche market that can lead the expansion of demand for fuelling and charging stations, which will encourage greater take-up of alternative fuel vehicles.
- The environmental benefits of taxis and hire cars can be realised within a public transport context when taxis perform mass transit-like services, particularly when supply of public transport services is limited or when use of these services is low.

- As consumer preferences change, there are likely to be opportunities for operators to attract a greater market share or develop new markets through the promotion of environmentally friendly or carbon neutral products and services.
- Governments face growing pressure to take action in relation to climate change, including setting a carbon price and regulating for reductions in GHG emissions. 'Staying ahead of the game' may enable the taxi and hire car industry to avoid more stringent regulations while enjoying significant cost savings and other benefits.

Substantial growth in the demand for transport is predicted over the coming decades in Victoria and managing this growth sustainably will require a decrease in the emissions intensity of motor vehicle travel.

With road transport accounting for nearly 17 per cent of Victoria's greenhouse gas (GHG) emissions¹, taxis and hire cars can make an important contribution to a sustainable Victorian transport system.

Sustainability issues are also likely to become of increasing importance to the taxi and hire car industry in reducing operating costs and exploring new markets.

¹ VicRoads, Air Quality and Greenhouse, accessed 12 April 2012 at www.vicroads.vic.gov.au/Home/Moreinfoandservices/Environment/Greenhouse.htm

18.1. Introduction

In the years ahead, the taxi and hire car industry will be dealing increasingly with sustainability-related issues:

- The industry will be expected, along with other parts of the road transport sector, to play its part in reducing GHG emissions from motor vehicle travel.
- The combination of a carbon price and volatility in global fuel prices means that the use of fuels to power vehicles is likely to become as much a financial issue as an environmental one in the years ahead. This will provide incentives for some taxi and hire car operators to move to more fuel efficient, low emission vehicles to minimise their costs.
- There is likely to be increasingly stringent regulation in Australia in relation to fuel efficiency and vehicle exhaust emissions, which could have an impact on the vehicle options available to operators.
- The high visibility of taxis means that governments often see the industry as an avenue for promoting a location's environmental policies or 'green' credentials. Again, this may lead to the imposition of regulatory controls on aspects of the industry's operation.
- Already, there is an emerging trend for consumers to be more conscious of the emissions intensity of the products and services they purchase. There is no reason to suppose that taxi and hire car services will be any different. As consumer expectations and preferences change, this is likely to create new opportunities in 'green fleets' or 'carbon neutral services' or other sustainable measures.

Taxi and hire car operators may need to become more innovative in managing these issues and capturing new demand. It is likely that, if the industry does not take action to become more sustainable, governments may look to regulation to compel or encourage it to do so, particularly in relation to reducing vehicle GHG emissions. It is clearly preferable if the industry 'stays ahead of the game' and takes advantage of current incentives to move to more sustainable vehicles, fleet management practices and driver behaviour.

Incentives have been provided in Victoria for both taxi and hire car operators to use hybrid vehicles, but take up of these incentives has been very low. Similar experiences have been recorded in other jurisdictions. However, it can be argued that such funds are better directed towards improving other aspects of the taxi and hire car industry, such as safety, accessibility or service quality. It should also be noted that, as taxis make up less than one per cent of the Victorian vehicle fleet, any environmental incentives may be better targeted to higher polluting sectors such as trucking or public transport.

While not encouraging direct incentives for Victoria, the inquiry believes there may be deficiencies in the education of operators, in particular around the fuel savings that may be generated by using a hybrid vehicle. While taxi and hire car operators are currently limited by a small selection of secondhand hybrid vehicles, the growing availability of these vehicles on the secondhand market may make them a more financially viable option.

The regulator can also promote the financial benefits of more environmentally sustainable behaviour and practices by taxi and hire car drivers and networks through the driver training curriculum, regular industry consultation and stakeholder engagement.

Other parts of this report, particularly chapter 19, discuss the removal of impediments to the more flexible uses of taxi services. There are clear environmental benefits where taxis can carry more than one passenger. These benefits are even greater where a taxi services can be used to replace a large bus and where the distances covered are long. Other sections of the report, particularly chapter 11, discuss the importance of dispatch services and the efficiencies they can deliver – for example, where dead running is reduced, there will be an environmental benefit from reduced exhaust emissions.

18.2. A sustainable transport system

The inquiry's Terms of Reference require it to review the taxi and hire car industry against the principle of environmental sustainability. In undertaking this review, the inquiry notes that Victorian Government and the Department of Transport (DOT) are taking a number of steps towards creating a more sustainable transport system.

18.2.1. The role of the Taxi Services Commission

Consideration of environmental factors in the taxi and hire car industry is enshrined in legislation under the *Transport Integration Act 2010* (TIA). Under this Act, the new industry regulator – the Taxi Services Commission (TSC) – is classified as a 'transport body' and 'transport system agency' and therefore must have regard to a series of transport system objectives in exercising its powers and performing functions. The TSC must also have regard to the decision-making principles in making decisions.

Under the TIAs 'decision-making principles', a triple bottom line assessment should be given to decisions through understanding the economic, social and environmental costs and benefits of a decision. These should take into account externalities and value for money.

Further, in performing its function, the TSC must have regard to the desirability of promoting environmentally sustainable practices in the commercial passenger vehicle industry.²

18.2.2. Sustainable transport system

The DOT adopts the following approach to developing a sustainable transport system:

Sustainable transport is not just about encouraging people to use public transport. It is about reducing carbon emissions on all transport modes across the entire transport system in Victoria and designing the transport system and our cities so there is less need to travel.³

The DOT focuses on three key areas in moving towards a sustainable transport system:

- Shaping a more efficient city, where people live closer to their work, schools, services and shops
- Making it easier for people to use more sustainable forms of transport
- Improving the environmental efficiency of transport activity and the transport fleet.

The DOT suggests a number of aspirational objectives for consideration by the inquiry,⁴ including that the sector should 'contribute to facilitating reductions in the carbon footprint of the transport system':

While the overall negative impact from taxi and hire car use is not significant, these services do produce environmental pollutants. Wider use of 'green' vehicles as taxis (e.g. hybrids and other low emission vehicles) can generate small environmental benefits as well as creating a positive image in the mind of tourists, general road users and the community.⁵

18.2.3. Environmental impacts of road vehicles

Road transport accounts for around 13 per cent of Australia's National Greenhouse Gas Inventory⁶ and nearly 17 per cent of Victoria's emissions⁷. Passenger cars account for 7.5 per cent of total emissions and trucks/buses a further 5.5 per cent. Greenhouse gas emissions have been increasing on average by 1.4 per cent per annum since 1990.

Motor vehicles emit a complex mix of exhaust gases. The principal greenhouse gas emitted by vehicles is carbon dioxide (CO₂) but vehicles also produce nitrous oxide and methane. Air pollutants can contribute to urban air quality problems, for example photochemical smog, as well as adversely affecting human health and the health of other living things.⁸

A vehicle's level of CO₂ emissions is linked to the amount of fuel consumed and the type of fuel used. Under national emissions standards, vehicles fuelled by petrol, liquefied petroleum gas (LPG) or natural gas (NG) vehicles are required to meet limits for the emission of carbon monoxide (CO), hydrocarbons (HC) and oxides of nitrogen (NOx). In addition to these pollutants, diesel vehicles must also meet a limit for the emission of particulate matter (PM). The allowable emissions from each fuel type are regulated under the *Motor Vehicle Standards Act 1989*, which prescribes the exhaust and evaporative emissions requirements for light vehicles in order to reduce air pollution.⁹

2 The inquiry is recommending that the TIA be amended to *allow* rather than *require* small specialist regulators such as the TSC to have regard to the objectives and principles of the Act (see chapter 21). However, the TIA's objectives and principles will still inform the regulator's decisions and operations

3 Department of Transport website: www.transport.vic.gov.au/projects/sustainable

4 DOT, Op.Cit., p.4

5 Ibid., p.23

6 Australian Government (2009), National Inventory Report 2009 - Volume 1, accessed 12 April 2012 at www.climatechange.gov.au/~media/publications/greenhouse-acctg/national-inventory-report-2009-vol1.pdf.

7 VicRoads, Op. Cit.

8 See www.greenvehicleguide.gov.au/GVGPublicUI/Information.aspx?ty pe= RatingsAndMeasurements

9 ComLaw (2005), Vehicle Standard (Australian Design Rule 79/2 - Emission Control for Light Vehicles) 2005, accessed 5 April 2012 at www.comlaw.gov.au/Details/F2010C00476

18.2.4. A carbon price in Australia

The Australian Government will introduce a price for carbon on 1 July 2012. While the carbon price will cover around 60 per cent of Australia's carbon pollution, it will not apply to light on-road vehicles.¹⁰ While on-road commercial vehicles 4.5 tonnes and under currently pay the full rate of excise on petrol and LPG, they will not be required to pay an additional carbon price.¹¹

Inquiry finding

- Victoria is taking a number of steps to build a more sustainable transport system in the face of energy and environmental challenges. Many of these steps will have an impact on the taxi and hire car industry.

18.3. Taxi and hire car contribution to a sustainable transport system

While Victoria's taxi fleet already has a relatively small carbon footprint compared to fleets in some other jurisdictions, further improvements can be made.

18.3.1. Vehicles

In Victoria, at least 90 per cent of all taxis use LPG instead of petrol based fuels such as unleaded and diesel.¹² A small percentage of Victoria's fleet uses hybrid vehicles.

The take-up of LPG conversions in taxis is primarily an economic decision for the operator of a vehicle. A vehicle using gas is cheaper to run – savings that are magnified when the vehicle accumulates many kilometres. The major vehicle choice for Victoria's taxi operators, the Ford Falcon, is also a large vehicle that accommodates the addition of a gas tank while still retaining adequate boot space for luggage.

In 2009, Professor Des Nicholls from the Australian National University prepared a report for the Australian Taxi Industry Association that examined the impact on the industry of proposals to tackle climate change. In relation to vehicle choice, Dr Nicholls noted:

Unlike many developed countries, in Australia most taxis in large cities have been converted to operate on LPG and (dual) LPG/petrol systems for many years. While the impetus for this was driven by the cost of LPG (as it is exempt from fuel excise / tax) a side benefit has been that it is significantly reduced the carbon footprint for taxis.¹³

Hire car regulations in Victoria restrict the vehicle type that can be used by an operator. Hire cars are tailored towards the provision of luxury vehicles, such as the Holden Statesman, Ford Fairlane and Mercedes sedans. Generally, these vehicles can accommodate LPG conversions, but the inquiry understands that most of the 2,700 hire car vehicles operating in Victoria run on petrol based fuels.

LPG

LPG is the generic name for mixtures of light hydrocarbon gas, mainly propane (C₃H₈) and butane (C₄H₁₀). LPG is a naturally occurring gas and is produced either through the processing of crude oil and natural gas or as a byproduct of petroleum refining.¹⁴ LPG used as automotive fuel is also referred to as 'autogas'.

Australia is one of the biggest users of LPG on a per capita basis, with LPG making up at least eight per cent of all road transport fuel usage.¹⁵

Costs and benefits of LPG

The primary advantage of using LPG as a motor fuel is that it can be up to 60 per cent cheaper than petrol, litre for litre. Other benefits are reduced exhaust emissions and potentially longer engine life.¹⁶

10 Australian Government, *Carbon Price*, accessed 5 April 2012 at www.cleanenergyfuture.gov.au/clean-energy-future/carbon-price/#content02

11 Taxi Council of South Australia (2011), 'Effects of a Carbon Tax on the Transport Industry' in *Fare*, October 2011, p.10

12 Figure provided by VTA to the Environmental Protection Authority in 2006, contained in EPA Victoria's Greenhouse Gas Inventory Management Plan June 2008, p.23, accessed 5 April 2012 at [http://epanote2.epa.vic.gov.au/EPA/publications.nsf/515bc2fde7bf93f44a2565b6001ee896/98384b62be85c2d5ca257419000626fb/\\$FILE/1168.1.pdf](http://epanote2.epa.vic.gov.au/EPA/publications.nsf/515bc2fde7bf93f44a2565b6001ee896/98384b62be85c2d5ca257419000626fb/$FILE/1168.1.pdf)

13 Nicholls, Des (2009), *Responding to Climate Change and its impact on the Australian Taxi industry*, Report for the Australian Taxi Industry Association, p.28

14 Department of Resources, Energy and Tourism (June 2010), Liquefied Natural Gas, Frequently Asked Questions, accessed 2 March 2011 at www.ret.gov.au/resources/documents/transport_fuels/LPG-fact-sheet-june-2010.pdf

15 Department of Sustainability, Environment, Water, Population and Communities (2012), Frequently Asked Questions: Autogas Fuel Quality Standard, accessed 2 March 2012 at www.environment.gov.au/atmosphere/fuelquality/standards/lpg/faq.html

16 RACQ website, LP Gas, accessed 2 March 2012 at www.racq.com.au/motoring/cars/car_advice/car_fact_sheets/lp_gas

The major costs of using LPG are the upfront costs of vehicle conversion and the loss of car boot space. For example, the cost of conversion for a Ford Falcon is around \$4,500.¹⁷ A rough estimate on the 'payback period' for a car travelling 15,000 km is 3.5 years;¹⁸ however, the high kilometres travelled by taxis (in excess of 100,000km per year) suggest that the conversion will pay for itself within a year of driving.

LPG is not as widely available as petrol, although this is mainly an issue for country operators. Due to its lower energy properties, fuel consumption tends to be 30 to 40 per cent higher with LPG than petrol consumption; however, this is offset by the lower cost per litre.¹⁹

Environmental benefits of LPG

The Commonwealth Department of Sustainability, Environment, Water, Population and Communities states that the mass of CO₂ released through a vehicle's exhaust pipe by burning one litre of fuel is:

- 2.3kg for petrol
- 2.7kg for diesel
- 1.6kg for LPG.²⁰

However, the amount of fuel consumed to cover a certain distance must also be included. LPG produces lower GHG emissions per litre of fuel consumed than petrol, but also has lower energy content. Diesel emissions are higher, but engines that operate using diesel are more fuel efficient than petrol engines.

While the cost savings of conversion to LPG is usually foremost in the consideration of operators, there are environmental benefits to be gained. As the RACV has noted:

LPG has the potential to emit less environmentally damaging emissions than petrol. In particular, a reduction in the emission of the greenhouse gas carbon dioxide in the order of 15 per cent can be achieved. However, studies have shown that the emissions potential of LPG will only be realised if the LPG fuel system is installed and maintained correctly.²¹

Other fuels

The use of LPG does not provide the same amount of environmental benefits as those obtained from renewable biofuels such as ethanol or biodiesel. Essentially, the plants that produce biofuels absorb the same amount of CO₂ as is released when the fuels are burnt. This balance means that their contribution to climate change is much lower than for fossil fuels.

However, a great deal of land is needed to grow the crops used to create biofuels, which generates potentially significant environmental and other costs.²² Currently, the availability of biofuels is also very limited in Australia, although this is likely to change as incentives to shift away from fossil fuels increase.

A number of governments around the world are also promoting the use of natural gas as a transport fuel in highly polluted areas – for example, taxis in Buenos Aires and auto-rickshaws and taxis in New Delhi.²³ An important consideration for these locations has been the availability of the fuel and distribution outlets.

Hybrid vehicles

The Victorian Government has encouraged the use of lower emissions vehicles in the provision of taxi and hire car services through the promotion of hybrid vehicles. Hybrid technology uses a conventional petrol engine supplemented by an electric motor and battery pack. The technology uses a small petrol engine, offering lower fuel consumption, supplemented by an electric motor for additional power and torque for acceleration and hill climbing. Hybrids are considered a more efficient vehicle for moving around cities with the petrol engine shutting down while sitting idle and battery power used for internal functions such as air conditioning. The petrol engine restarts around the 15 to 20km per hour mark.²⁴

17 Australian Taxi Industry Association, Submission to the Implementation of Alternative Fuels Taxation Policy Discussion Paper, December 2010, p.2

18 Calculations for payback are provided on the RACQ website: www.racq.com.au/motoring/cars/car_advice/car_fact_sheets/lp_gas

19 RACQ website, Op. Cit.

20 See www.environment.gov.au/settlements/transport/fuelguide/environment.html

21 RACV Liquefied Petroleum Gas (LPG) member information sheet, accessed 2 April 2012 at [www.racv.com.au/wps/wcm/connect/Internet/Primary/my+car/advice+_+information/fuel/liquefied+petroleum+gas+\(LPG\)+member+information+sheet?CACHE=NONE](http://www.racv.com.au/wps/wcm/connect/Internet/Primary/my+car/advice+_+information/fuel/liquefied+petroleum+gas+(LPG)+member+information+sheet?CACHE=NONE)

22 Rural Industries Research and Development Corporation (2007), *Biofuels in Australia – An overview of issues and prospects*, Publication No. 07/070, p.5

23 Rodrigues da Silva, A.N. and Balassiano, R. (2011), *Global Taxi Schemes and their Integration in Sustainable Urban Transport Systems*, Paper prepared for the Expert Group Meeting for Sustainable Urban Transport: Modernising and Greening Taxi Fleets in Latin American Cities, May 2011, p.18

24 NRMA website, Hybrid Cars Factsheet accessed 2 March 2012 at www.mynrma.com.au/motoring/buy-sell/buying-advice/green/hybrids.htm

Table 18.1 Sample of vehicle prices

Make and model	Purchase price (2011 model)	Second hand (2009 model)
Ford Falcon G6	\$32,000 to \$45,000	\$18,000 to \$30,000
Toyota Prius	\$35,000 to \$50,000	\$20,000 to \$25,000
Toyota Camry Hybrid	\$28,000 to \$32,000	n/a
Lexus CT Hybrid	\$38,000 to \$57,000	n/a

Source: Sample of vehicle prices by searching on car purchase websites including buyingcars.com.au and redbook.com.au

In October 2009, the Government's release of a further 100 peak service taxi licences included making 50 available for hybrid vehicles. The hybrid licences were offered at a reduced rate of \$765 per year compared to \$6,265 per year for a conventional licence.²⁵ At the time, it was expected that hybrid taxis would emit almost two tonnes less CO₂ and save around \$5,000 worth of fuel each year.²⁶

There are currently 42 peak service licences operating hybrid Toyota Prius vehicles. There are four conventional licences operating Prius hybrid vehicles in metropolitan Melbourne. In the country zone, only one Toyota Prius is operating. There may be Toyota Camry hybrid models operating in Victoria; however, the data provided by VicRoads does not distinguish between petrol and hybrid models.

The comparatively high upfront costs of purchasing a vehicle may be contributing to the low uptake of hybrid taxi vehicles. A number of larger fleets achieve economies of scale in the maintenance and repair of their vehicles by choosing a particular vehicle for which parts and labour are easy to obtain. In Victoria, the predominant vehicle of choice is the Ford Falcon with LPG conversion. The Falcon, purchased as an ex-fleet vehicle, is potentially cheaper as a secondhand vehicle than the models offered by Toyota (see Table 18.1). As more secondhand Toyota Camry hybrids become available, operators may consider making a switch to a more fuel efficient vehicle, without incurring the upfront conversion costs for LPG. By this time, it is likely that operators will better understand any limitations of the new hybrid vehicles.

In its submission on alternative fuels taxation policy, ATIA raised concerns with hybrid vehicles as a suitable viable taxi option, commenting that the weight of batteries (and the storage space required) made the vehicles inappropriate for longer trips or for transporting passengers travelling with scooters or mobility aids.²⁷

However, the ATIA has also noted the benefits of reduced input costs of hybrids. In his 2009 climate change report for the ATIA, Dr Nicholls made specific mention of a fleet of 32 Toyota Prius that operate from Cairns. Each Prius averages around 200,000km each year. One of the owners of these vehicles is quoted in the report as saying that, in three years of service, the Prius has cost half the fuel and maintenance outlay of other conventional taxis in the company's fleet.²⁸

The Victorian Government has also encouraged the use of hybrid vehicles for hire car services. Early in 2008, then Premier John Brumby introduced environmentally friendly hybrid vehicles in metropolitan Melbourne,²⁹ supported with a discounted licence fee of \$40,000 instead of the \$60,500 metropolitan hire car licence fee.³⁰

Hire car operators have also been permitted to use vehicles that cost less than the luxury tax threshold provide they meet a hybrid classification. As of January 2012, there are 32 hybrid hire car licences comprising Lexus RS/LS, Toyota Prius and Toyota Camry models.

Uptake of these hybrid initiatives has not been high. Operators have told the inquiry this is because the image of the hire car industry is one of 'luxury' branding and hire car licence holders (and possibly hire car users) do not view the hybrid vehicle models as reflecting this image. One of the few examples of a hybrid hire car fleet is Ecolimo, which operates in Melbourne and Sydney.³¹

25 Premier of Victoria, Media Release (28 October 2008), *Victoria's 'Green' taxi fleet up for grabs – 100 new peak service taxis on offer*, accessed 2 April 2012 at www.premier.vic.gov.au/minister-for-public-transport/victorias-green-taxi-fleet-up-for-grabs-100-new-peak-service-taxis-on-offer.html

26 Premier of Victoria, Media Release (12 February 2008), *Premier announces hybrid taxi fleet trial for Melbourne*, accessed 2 April 2012 at <http://archive.premier.vic.gov.au/component/content/article/1368.html>

27 Australian Taxi Industry Association (2010), Submission to the Implementation of Alternative Fuels Taxation Policy Discussion Paper, 2010, p.5

28 Nicholls, Des (2009), Op. Cit., pp.18-19

29 Premier of Victoria, Media Release (12 February 2008), Op. Cit.

30 Victorian Government Gazette, No. S137, Monday 26 May 2008

31 Ecolimo, accessed 3 July 2009 at www.ecolimo.com.au

Table 18.2 Greenhouse and air pollution ratings, comparison of makes and models of vehicle

Overall rating	Vehicle details	Fuel type	Fuel consumption				Greenhouse rating	Air pollution rating
			Comb	Urban	Extra	CO ₂ Comb		
5 star	Toyota Prius Hybrid 1.8L 1cyl, CVT 1 speed, Hatch, 5 seats, 2WD	Elec/ Petrol 95RON	3.9	3.9	3.7	89	9	8.5
3 star	Holder VF Calais 6.0L 8cyl, Auto 6 speed, Wagon, 5 seats, 2WD	Petrol 91RON	12.3	17.45	9.3	292	4	6.5
3.5 star	Ford FG Mk II Falcon G6 1.0L 6cyl, Auto 6 speed, Sedan, 5 seats, 2WD	LPG	12.4	18.3	9.0	202	6	6.5

Source: Australian Government Green Vehicle Guide

Trials of hybrid vehicles are underway in many jurisdictions around the world, usually involving direct subsidies (helping to pay for vehicles) or indirect subsidies (through incentives such as prioritised dispatch services). In the US, taxis are targeted under the Clean Cities Program as vehicles that can mitigate air pollution. Taxis are seen as having ‘demonstration’ benefits, given they are high use and high profile vehicles. Private enterprise has been engaged to support the conversion process for taxi fleets to alternative fuel vehicles (AFVs) such as natural gas and hybrid vehicles. Mr Mark Simon, Director of the Alternative Fuels Program, New York City Department of Transportation, has noted:

The taxi industry is a valuable niche market by acting as a bridge to the private sector. As the program expands, demand for more fuelling stations are made, which will potentially cause fuel to be available for private use. Also, the savings from high fuel usage of lower cost fuel can help offset the higher incremental vehicle cost. Taxi drivers could use alternative fuel vehicles to save money on fuel.³²

Gao and Kittirattagarn have estimated a potential penetration of over nine per cent of hybrid electric in the New York taxi fleet vehicles over a five year period. The introduction of these hybrids in a fleet of over 13,000 vehicles will mean a reduction of 2.29 per cent in carbon dioxide, 1.45 per cent in carbon monoxide, 1.12 per cent in hydrocarbon and 1.7 per cent in nitrogen oxide emissions. However, the study notes that there will be a corresponding increase in particulate matter of 0.03 per cent due to a higher uptake of sports utility hybrid vehicles.³³

Trials of ‘green fleets’ have been conducted in Western Australia and Queensland. These trials have involved subsidies in the form of reduced lease rates on licences and direct subsidies for purchasing hybrid vehicles.

Environmental benefits of hybrid vehicles

Hybrid vehicles have the advantage of an electric fuel source, which does not emit exhaust pipe pollutants. However, it is important to recognise that the way in which the electricity was produced must be factored into any environmental benefits of such vehicles. In Victoria, brown coal represents almost half the primary energy used, with oil and gas making up a further 49 per cent³⁴. Power plants producing electricity emit significant pollutants. Other sources of electricity generation cause no air pollution (including nuclear, hydro, solar or wind powered plants); however, renewable energy made up only two per cent of Victoria’s consumption in 2004/05.

The more efficient use of petrol means that hybrid vehicles emit far less GHG emissions compared to other vehicles. The Australian Government Green Vehicle Guide suggests that a Toyota Prius emits less than half the emissions of a Ford Falcon with LPG conversion (the vehicle favoured by Victorian taxi operators) and one third of the emissions of the petrol fuelled Holden Calais (see Table 18.2).

Vehicles with electric motors also convert a higher amount chemical energy from the battery into power to drive the wheels: 75 per cent conversion compared with 20 per cent of the energy stored in gasoline. The importance of capturing this ‘thermal energy’ is explained by the CSIRO:

³² US Department of Energy (December 1998), Alternative Fuel News, Volume 2, Number 5, p.6

³³ Gao, H. O. and Kittirattagarn, V. (2008), Taxi owners’ buying preferences of hybrid-electric vehicles and their implications for emissions in New York City, *Transportation Research Part A: Policy and Practice*, 42(8): 1064-1073

³⁴ Sustainability Victoria (2012), Energy Generation in Victoria, accessed 5 April 2012 at www.sustainability.vic.gov.au/www/html/1817-energy-generation.asp

Of the 80 per cent that is lost (in conventional cars), about 40 per cent goes down the exhaust and 30 per cent is used in the radiator³⁵

Fully electric vehicles rate as a zero emission vehicles; however, there are no known taxis or hire cars running on purely electric fuel sources in Victoria.

18.3.2. Fleet management – GPS dispatch

Efficiencies in the connection of demand with supply also have significant environmental benefits, most of which derive from reducing the time in which taxis are ‘running dead’ searching for work. The environmental impacts of this cruising are more severe than for taxis waiting at ranks.

In metropolitan, outer suburban and regional centres, Network Service Providers have installed computer-based dispatch services using GPS technology to match the nearest vehicle to the customer. While it is difficult to estimate the environmental benefits of Victoria’s dispatch systems, attempts to put a value on GPS/GIS technology have been conducted in Taiwan. In metropolitan Taipei, the public authority has encouraged taxis to be equipped with GPS/GIS to more efficiently match supply and demand. It is estimated that this has led to energy savings of US\$4.35 billion per year.³⁶

The savings in dead running time from greater efficiencies in dispatch (and therefore reduced financial and environmental costs), are noted elsewhere in this report, most notably in the operation of Addison Lee minicabs in London.³⁷

As discussed in chapters 11 and 23, there is great potential for technology to better match customers with suppliers in the taxi and hire car markets, reducing emissions from these vehicles.

Driver behaviour

The way in which the driver drives the taxi or hire car has an impact on GHG emissions produced. Turning vehicles off when stationary (such as when waiting at ranks) is one obvious way to reduce fuel consumption and lower emissions. Speeding burns more fuel at a faster rate, whereas smooth driving behaviour, anticipating traffic flow and maintaining safe distances from cars in front can potentially reduce emissions. Other driving techniques used to reduce emissions include keeping revs to below 2,500 revs per minute, reducing speed up hills, keeping extra weight out of cars and minimising use of air conditioners.

These ‘green driving’ techniques can not only reduce emissions, but can also save operating costs as vehicles use less fuel and require less maintenance.

A vehicles’s maintenance schedule also has an impact on its emissions. Services and tuning should occur at regular intervals, with checks of oil, coolant, break fluid and batteries every fortnight. Tyre pressure and alignment ensure proper operation of the vehicle, as does maintenance of the air conditioning unit.³⁸

Inquiry findings

- ➔ Given the high number of kilometres travelled by taxis in Victoria, fuel efficiency is an important factor for operators. LPG conversion offers a clear financial saving for operators, with reducing GHG emissions a secondary consideration.
- ➔ Hybrid vehicles have emerged as a more fuel efficient option for taxis and hire cars, with subsidies being made available by the government. Despite these incentives, uptake of hybrid vehicles remains low. This is possibly due to a lack of trust in hybrid technology, low numbers of secondhand vehicles and the economies of scale associated with the popular Ford Falcon vehicles.
- ➔ Hybrid vehicles may become a more attractive vehicle choice for taxi and hire car operators as larger numbers of secondhand vehicles are available, in particular the current Toyota Camry hybrid model.
- ➔ The management of a taxi or hire car fleet, together with driver behaviour, can have a further impact on the use of a vehicle, its fuel efficiency and maintenance costs.

³⁵ David Adams (2008), ‘How tomorrow’s cars will leave a lighter “footprint”, CSIRO Solve, Issue 13, June 2008

³⁶ Wu, Chi Hsuan, Chang, S. K. Jason and Lin, Chihhsu (2010), *Comparison of Environmental Benefits Between Satellite Scheduled Dispatching and Cruising Taxi Services*, Transportation Research Board 89th Annual Meeting, Washington DC, p.16

³⁷ See chapter 14

³⁸ See for example: Living Greener information, How tos and rebates for sustainable living: Motor transport, accessed 2 March 2012 at www.livinggreener.gov.au/travel/motor-transport and Environmental Transport Association, Save money, drive green at www.eta.co.uk/green_driving

Table 18.3 Victorian vehicle fleet 2011

Vehicle type	No. of registered vehicles	Percentage
Passenger vehicles	3,302,767	78.7%
Light commercial vehicles ^{sw}	562,844	13.4%
Motorcycles	160,634	3.8%
Heavy rigid trucks	77,339	1.8%
Light rigid trucks	25,566	0.6%
Articulated trucks	25,134	0.6%
Buses	18,817	0.4%
Campervans	11,147	0.3%
Non-freight carrying trucks	6,208	0.1%
Taxis	5,255	0.1%
Hire cars	2,660	0.1%

Source: Australian Bureau Motor Vehicle Census 2011, Victoria, Selected data and licence data from the Victorian Taxi Directorate website

18.4. The impact of taxis and hire cars on the wider transport system

While there are clear benefits in the use of more environmentally friendly vehicles in the taxi and hire car fleets, the impact must be understood within the wider context of the Victorian vehicle fleet. As noted above, the majority of GHG emissions from the transport sector are produced by road transport. In 2008, road transport made up 87 per cent of all transport emissions.³⁹ But taxis make up only a very small proportion of the road transport fleet, as shown in Table 18.3.

Despite making up a low proportion of the total vehicle fleet, taxis and hire cars have a role to play in developing a more sustainable transport system. As noted above, taxis are high use, high profile vehicles that can help to demonstrate the benefits of sustainable practices to the community and road transport sector more broadly. In addition, taxis and hire cars have a role to play as an alternative to public transport. In some instances, using taxis and hire cars in particular ways may be more environmentally friendly than other options – for example, sharing a high occupancy vehicle late at night and when demand for taxis is high. In its submission to the inquiry, the DOT supports encouraging share rides in taxis as a more efficient method of transporting customers:

“More efficient use of services, including share-riding and coordination of vehicles to reduce the time they spend travelling without passengers, would have positive environmental impacts and reduce the cost of running taxi services.”⁴⁰

While not considered a ‘mass transit mode’, Figure 18.1 shows that taxis are still a major transport option for Victorians and form an important part of the Victorian transport system.

As a point-to-point service, taxis can provide some environmental advantages over the use of private motor vehicles and, at some parts of the day, even over mass transit options. The potential for taxis to operate as substitutes to private vehicles was raised by DOT:

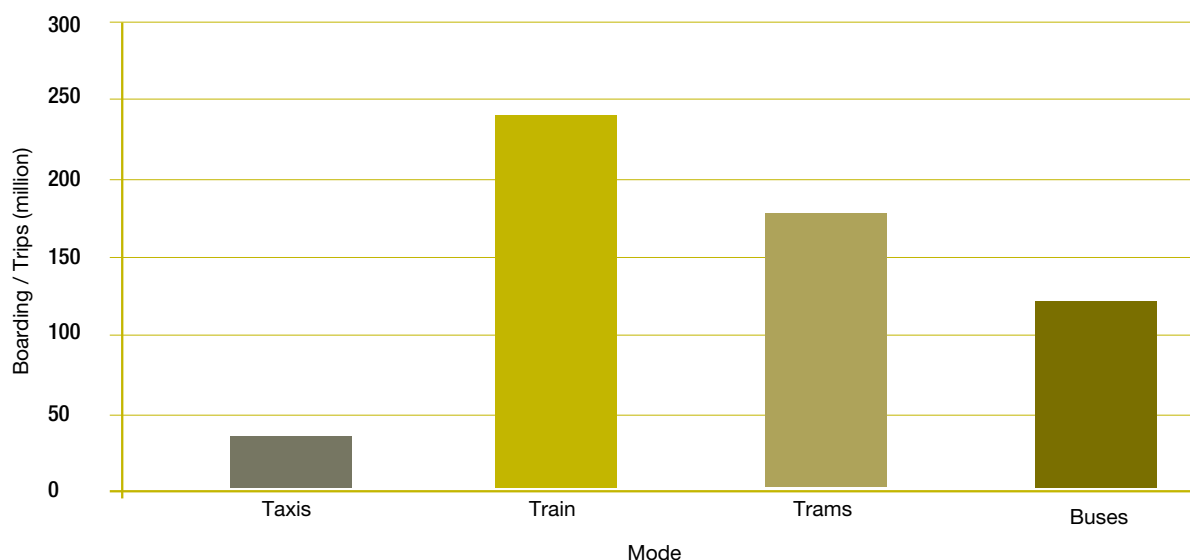
“The area in which point-to-point services have the potential to contribute most to the reduction of carbon emissions is in the shared transport of people who would otherwise travel as single occupants in private vehicles.”⁴¹

39 SKM (2011), Modelling of Transport Emissions, Version 1, 9 February 2011, p.11

40 DOT, Op. Cit., p.23

41 Ibid., p.23

Figure 18.1 Number of Victorian trips/boardings by mode



Source: Train, tram and bus data sourced from DOT (2010/11), *Track Record Annual Results – Metropolitan and Regional Patronage, 2010-11* accessed 2 March 2012 at www.transport.vic.gov.au/pt/facts-and-figures/track-record/annual-metropolitan-patronage. Taxi data sourced from ATIA (2010), *2010 State and Territory Statistics*, accessed 2 March 2012 at www.atia.com.au/images/content/pdf_ATIA/stats/20110427114238_2010_State_Territory_Taxi_Statistics-1.pdf

These issues were explored in a Victorian context by Pricewaterhouse Coopers (PWC) in a 2010 Report for the DOT.⁴² PWC found that emissions from motor vehicles with average occupancy can be comparable to the emissions of off peak mass transit services in certain circumstances – namely, off peak periods combined with very low use of the available public transport options. For example, a bus that runs late at night but carries very few passengers will generate more emissions per passenger than if a taxi undertook this trip. PWC drew on analysis that suggested 48 per cent of taxi trips had only one customer, with a further 30 per cent of trips having only two passengers.⁴³ Trips carrying three or four people made up 11 per cent and 8 per cent respectively of all jobs.

The passenger efficiency and environmental benefits of taxis are enhanced when they play more of a mass transit role during periods when public transport services are limited. This has been observed in a number of European cities where taxis have been used to perform bus-like roles. For example, in Rouen, France, taxis replace buses at off peak times or in sparsely populated districts. Taxis are compensated on an hourly or per kilometre tariff, while the customer pays the public transport fare.⁴⁴

Using taxis as a public transport-like service creates further potential for vehicles to be used to demonstrate the Government's green credentials. This would complement other on-road initiatives such as the conversion of a high proportion of the Government's vehicle pool to more environmentally friendly vehicles.⁴⁵

Inquiry findings

- ➔ Taxis make up only a small fraction of the total Victorian vehicle fleet and therefore the impact of any environmental gains are likely to be minimal.
- ➔ However, the environmental benefits of taxis and hire cars are realised within a public transport context when taxis perform mass transit-like services, particularly when supply of public transport services is limited or when use of these services is low.
- ➔ As a highly visible service to the public, taxis can play an important symbolic role for demonstrating environmental policy objectives, such as reduced vehicle emissions through the use of alternative fuels and sustainable driving practices.

⁴² Pricewaterhouse Coopers (2010), *Background Paper: Performance of the Victorian Taxi and Hire Car Sector*, Paper prepared for the Victorian Department of Transport

⁴³ Research conducted by Wallis Consulting and cited in PWC (2010), p.90

⁴⁴ Quidort, M. (2008), 'The Taxi: A new dimension in urban mobility', *Public Transport International Journal*, March/April 2008, pp.8-9

⁴⁵ Under the Victorian Government Standard Motor Vehicle Policy, passenger vehicles that travel in excess of 30,000 kms per year must either be four cylinder, hybrids or dedicated LPG vehicles. Victorian Government Standard Motor Vehicle Policy 2011, p.17 accessed 2 March 2012 at [www.vicfleet.vic.gov.au/CA2572270020B77B/WebObj/WholeofGovernmentStandardMotorVehiclePolicyV1January2012/\\$File/Whole%20of%20Government%20Standard%20Motor%20Vehicle%20Policy%20%20V1%20January%202012.pdf](http://www.vicfleet.vic.gov.au/CA2572270020B77B/WebObj/WholeofGovernmentStandardMotorVehiclePolicyV1January2012/$File/Whole%20of%20Government%20Standard%20Motor%20Vehicle%20Policy%20%20V1%20January%202012.pdf)

What's happening in other places?

Queensland

The Queensland Government has taken two approaches to reducing vehicle emissions from taxis, aimed at improving the take-up of more fuel efficient vehicles and raising industry awareness about oil vulnerability and climate change.

Under the 'Greening the Taxi Fleet' initiative, tenders for new licences where the taxi operator agrees to purchase and operate a specified green vehicle benefit from a 15 per cent preference ruling in the tender.

The Government has also promoted 'eco-driving' and 'eco-maintenance' as cost effective ways to improve the fuel efficiency of the taxi fleet and reduce emissions. These initiatives promote smoother driving patterns (such as using optimal rev ranges) and adopting vehicle maintenance practices such as regular tuning to reduce fuel consumption.⁴⁶

London

Taxis have been a focal point for the reduction of emissions in London under a number of initiatives put forward by the Mayor of London.⁴⁷

Road transport is responsible for around 80 per cent of airborne pollution (PM10) in central London where air quality is worst, with black cabs contributing 20 per cent.⁴⁸

Clearing the Air is an Air Quality Strategy that bans all black cabs over 15 years old from operating after 1 January 2012 – around 1,200 vehicles. The Mayor will introduce a requirement for all new taxis entering the fleet to meet strict vehicles standard from 1 April 2012. From 2013, all taxis will be required to take two full MOT tests each year instead of the current annual requirement. This will ensure that vehicles are operating cleanly and efficiently throughout the year.

In addition, from January 2012 all aspiring cabbies will be required to take a mandatory eco-driving course. This is designed to help cabbies save money and reduce emissions of pollutants and CO₂.

The Mayor and Transport for London have also announced a £1 million fund to encourage taxi owners to upgrade to low emissions vehicles such as electric black cabs.

A taxi emission strategy has been developed for black cabs to reduce the fleet's emissions by gradual vehicle replacement, better fuelling choices and practices to encourage fuel savings. Older vehicles can be retro-fitted with diesel particulate filters to meet stringent emissions limits.

Within the black cab industry, some companies have moved to environmental practices without assistance. In 2005, Radio Taxis Group, with a fleet of over 3,000 London black cabs and 80 executive cars, announced that it would become carbon neutral.⁴⁹ The group introduced a program to measure and reduce its carbon dioxide emissions, and to offset the remaining unavoidable emissions through renewable energy projects in Sri Lanka and Bulgaria and sustainable forestry projects in the UK and Germany. It was estimated that the projects would save and absorb some 24,000 tonnes of CO₂ at a cost of around £100,000 per year.

46 Queensland Government, *Queensland Taxi Strategic Plan 2010-15: A vision for the future and action plan for the next 5 years*, accessed 2 March 2012 at www.tmr.qld.gov.au/~media/e1df596c-aa89-478d-9c0e-8dbf3e598dfb/pdf_taxi_strategic_plan_2010_2015.pdf

47 See for example: Mayor of London, Media Release, *Mayor's tough new air quality standards to remove dirtiest black cabs from London's roads*, accessed 2 April 2012 at www.london.gov.uk/media/press_releases_mayoral/mayors-tough-new-air-quality-standards-remove-dirtiest-black-cabs-london

48 Creating the future of Transport, 2008, A Best Practice Guide for reducing emissions from taxis in London, published Project Report, accessed 2 April 2012 at www.westlondonairquality.org.uk/uploads/documents/Projects/Taxi%20Best%20Practice%20Guide.pdf

49 Nicholls, Des (2009), Op. Cit., p.12

Sweden

Stockholm-Arlanda Airport has been recognised internationally for its environmentally sustainable use of taxi services. Using its dispatch system, vehicles that operate on 'green' fuel are given priority – providing operators with an incentive to convert to low emissions vehicles. In support of the initiative, the Swedish Environmental Protection Agency has modelled reductions of 65 per cent in emissions for cars running on ethanol and 85 per cent reductions for biogas-run vehicles.

A monitoring system is used to check fuel types used by vehicles. As a result of the advanced IT system in place, the share of ecotaxis at the airport has nearly doubled in six months.⁵⁰

New Zealand

First Direct is a company operating out of Christchurch with a fleet of over 120 vehicles. First Direct became certified as a CarboNZero service⁵¹ in 2009, gaining recognition as a carbon neutral business that has monitored, reduced and offset its GHG emissions.

The First Direct fleet is made up of over 30 per cent hybrid vehicles. First Direct have introduced a GPS-based dispatch system to reduce 'dead running' times and encourage efficiencies, driver training in 'green driving' techniques and vehicle emissions standards of less than 200 grams per kilometre. Biodiesel is used in First Direct vans and the fleet's emissions are offset through the purchase of hydro-power carbon credits.⁵²

Boston

CleanAir CABS has established itself as the environmentally friendly cab fleet of the greater Boston area. A US\$3,000 federal taxi credit has been used to help offset the cost of hybrid taxis. Hybrid taxi drivers also receive two 'front of line' passes for each airport shift. For operators, exemptions allow them to charge their drivers an additional \$15 per shift, which works out to be an average \$5,000 per year in revenue. Hybrid vehicles can also be used for up to six years, as opposed to the three year limit on used Crown Victoria vehicles.

Following the success of incentive measures, the City of Boston has mandated that all taxis will be CleanAir cabs by 2015, including cars powered by natural gas.⁵³

50 'Stockholm-Arlanda's taxi system wins another environmental award', Aviation Environment Newswire 21 February 2011. Accessed 2 March 2012 at <http://newswire.enviro.aero/newswire/2011/feb/21/stockholm-arlanda-s-taxi-system-wins-another-environmental-award>

51 CarboNZero is an internationally accredited greenhouse gas certification scheme under ISO 14065 recognised as a best practice across business operations, ensuring consistency of emissions measurement, credibility of reduction and offsetting activity and assurance of market claims

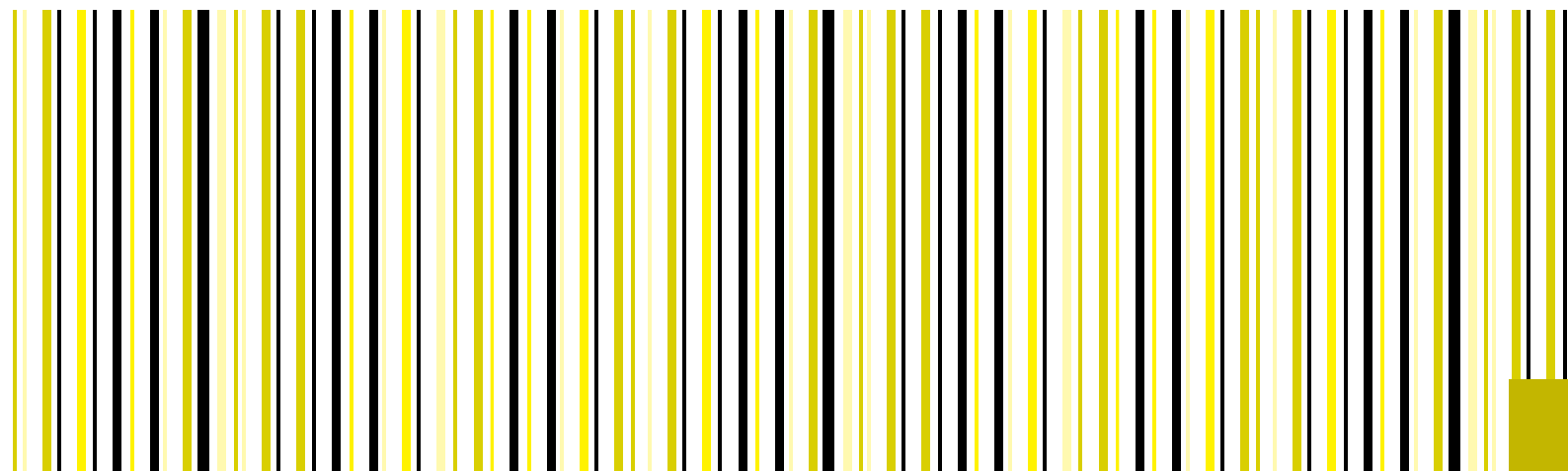
52 www.firstdirect.net.nz/Environment and Taxi Firm Reduces Travellers Environmental Impact, Scope Independent News, 26 October 2010, accessed 12 April 2012 at: www.scoop.co.nz/stories/BU1010/S00763/taxi-firm-reduces-travellers-environmental-impact.htm

53 US Department of Energy (2009), Fact Sheet: Hybrid Taxis give Fuel Economy a Lift in Clean Cities, April 2009



Part E

Improving performance



Chapter 19.

19. New opportunities and innovation

Key messages

- There is scope for the taxi and hire car industry to grow and expand into new markets.
- Taxis and hire cars can play a greater role as providers of point-to-point transport, including tapping into unserved or under-served markets and latent demand, expanding into new markets and providing services to complement the public transport system.
- Opportunities exist to expand the taxi and hire car market through better integration of these services with community and public transport services, particularly in regional areas. More can be done by the Victorian Government to ensure that taxi and hire car services are integrated more effectively into the broader transport system.
- There is particularly strong potential – and community support – for share ride services and taxi-bus services.
- Unnecessary ‘red tape’ is preventing the growth of more flexible taxi services. In particular, ‘over-reaching’ bus regulation is constraining the growth of demand responsive and set route ‘taxi-bus’ services. This stifles the potential for innovation in taxi services and restricts the Victorian Government’s ability to procure ‘value for money’ transport services in places and at times where patronage is low.
- A new regulatory framework should be considered to encourage the development of taxi-bus services. Along with other reforms being proposed by the inquiry, this will minimise the barriers currently standing in the way of these services being developed and improve the taxi industry’s ability to expand the range of new and improved services it offers to consumers.
- Even with lower regulatory barriers, taking up these new opportunities will require the industry to show much higher levels of innovation and a greater willingness to embrace competition and new ideas than it has to date.

Many ideas for new taxi service options have been put to the inquiry. The inquiry’s interest in identifying these options is not to assess their prospects for success, but to ensure that any proposed reforms do not limit the range of potential new and improved services that could be offered to Victorian consumers. As Dr Ron Ben-David, Chairperson of the Essential Services Commission told the inquiry:

“Whether these [potential services] are even realistic business propositions is not the point. What matters, and what ought to matter to this inquiry, is whether new and alternative and innovative service offerings are precluded to the detriment of customers.”¹

This chapter sets out observations from industry participants, consumers, local councils and others about the potential for new taxi and hire car services to fill gaps in the broader transport network, capture new markets and improve existing services. It examines the results of the inquiry’s commissioned research into consumer detriment and the demand elasticity of taxi services in Victoria to identify where changes can be made to increase taxi occupancy and expand the market for taxi services. It also examines the opportunities for taxis and hire cars through better integration with community transport and public transport. Finally, the chapter explores issues relating to the provision of shared-ride and ‘taxi-bus’ services and the legislative and other constraints that prevent these services from developing.

¹ Ben-David, Ron, Op.Cit., p.8

19.1. Introduction

While there is limited reliable data and evidence available to accurately determine the nature and extent of potential taxi and hire car markets in Victoria, there appears to be opportunities for the industry to raise taxi occupancy rates, develop new services and expand into new markets. The main reasons the industry has not taken up these opportunities to date are that some of these services are uneconomic (or perceived to be uneconomic by the industry) and some are effectively precluded by regulation. In other instances, the structure and operation of the industry acts to stifle innovation, giving taxi operators and others little incentive to explore new services or new ways of doing things.

Suggestions put to the inquiry for growing the taxi market range from better ways of packaging existing services (such as encouraging and advertising share ride and multiple hire services) to new service options (such as taxi-bus services and taxi shuttles).

The inquiry's commissioned research into consumer demand also found that changes in key service attributes, such as price, waiting time and reliability, have an influence on whether and how consumers choose to use taxis.

Transport experts and economists consulted by the inquiry considered that taxis and hire cars can play a much bigger role as providers of point-to-point transport and that opportunities exist for an expanded market that taps unmet demand and helps to meet broader public transport objectives.

In particular, share ride and taxi-bus services are nominated by many people as being one area where taxi services could be significantly expanded, with benefits for both the industry and consumers.

There are a number of impediments to the development of these service options, including licence restrictions, regulatory constraints and the past reluctance of the Victorian Government to open up public transport contracts to the taxi and hire car industry. The inquiry's reforms will minimise these impediments, giving the industry greater scope to explore and establish new service options. The inquiry is also proposing a new regulatory framework that will allow taxis to be used to fill public transport gaps in places and at times when patronage is low, but the social need for services is high.

While the cumulative effect of the inquiry's reforms will be to open up new opportunities for the taxi industry, realising the full benefits of these opportunities will require the industry to show considerably higher levels of innovation and a greater willingness to embrace new ideas than it has exhibited to date.

19.1.1. Submissions and consultations

Many responses to the inquiry give an insight into changing consumer demands and expectations and the potential this offers to grow the taxi market. In addition, many people – customers, drivers, taxi operators and representatives of community and business organisations – have proposed new services options to address gaps in public transport services, meet the needs of particular groups or communities, or improve existing services.

Possible new service options raised with the inquiry include:

- Share ride services – where a number of customers share a taxi for an agreed price
- 'Taxi-bus' services – where taxis are used along set routes, with stops and timetables, and a set price is charged or where taxis offer a demand responsive service on a regular basis along a variable route that depends upon customer demand
- Taxi shuttles – where high occupancy taxis are used between set destinations at particular times (such as late at night or during major events)
- Flat fare or set fare services – where customers pay a flat fare or set fare for a particular service
- Dedicated pick-up and drop-off services from locations such as hospitals and major shopping centres.
- Women-only taxi services – driven by women and usually available only to women and children.

The inquiry also received suggestions for ways in which taxi operators could package services into more flexible and affordable products.

The Metropolitan Transport Forum (MTF) pointed out that alternatives to private car use, such as a car share scheme, have been established in Melbourne and that the taxi industry is highly vulnerable to these alternatives. Noting that a certain amount of taxi travel is equivalent to the cost of owning and running a car, the MTF advances one option for expanding the taxi market:

“Packaging and marketing taxi travel around a weekly travel budget could present an attractive alternative to those not wishing to buy a car, and may be of particular appeal to older drivers.”²

² Metropolitan Transport Forum, Submission to the Taxi Industry Inquiry, SS199, p.7

Other suggestions include taxi operators offering packages to attract business customers, such as a certain number of trips to Melbourne Airport each year or a certain number of trips in a 'premium' vehicle for a fixed up-front price that represents a significant discount over the metered fare.

Encouraging share ride or multiple hire services are particularly popular options advanced by taxi users, reflected in the following comments:

We should look at a system that actively encourages multiple booking of cabs and, with smart phone and GPS technology, this could be an automated system.³

Active encouragement and promotion of multiple hiring would be more economical for the customer and could only increase overall patronage of taxis.⁴

These services are seen as having the potential to improve availability at peak periods and make taxi travel more economical for customers. Ms Christine Fyffe, Member for Evelyn, criticises:

...the inflexibility for passengers to carpool a taxi. Currently, if multiple passengers are waiting at a taxi rank and agree to split a taxi, the driver can taken them and drop them off at three separate destinations. However, a driver cannot pick up three different customers en route to the same destination.⁵

The MTF also points out that greater ride-sharing in taxis will have positive flow-on effects on congestion, particularly during peak periods in and around the central city. In its submission, the MTF argues that increasing taxi occupancy would be 'a good start' to focusing attention on vehicle occupancy as a means of reducing congestion and that:

Integrating higher taxi occupancy with high occupancy lanes on busy arterials and freeways would provide further incentive.⁶

While acknowledging the regulatory impediments standing in the way of some of these service options, a number of respondents to the inquiry have commented that the taxi industry has failed to exploit opportunities for new or improved services within the existing regulatory framework – including exploring ways to improve customer service through the use of new smartphone applications. These respondents argue that service innovation has been virtually absent from the Victorian taxi market. As the Department of Treasury and Finance states:

The level of innovation and productivity in the sector is relatively low. While there has been take-up of online booking by NSPs, it is not clear that this has resulted in additional benefits to customers. Indeed, any cost savings are likely to have been captured by the NSPs rather than being shared with end users. Innovative approaches in other markets include the introduction of cost-effective shared rides in Brisbane, and the use of hire cars to compete for business at the corporate end of the market as has been seen in New Zealand. Service innovation of this type appears absent in the Victorian market.⁷

19.2. Missing markets and latent demand

There is very little analysis and evidence available to help determine the nature and extent of 'missing' and future taxi and hire car markets or latent demand for these services in Victoria.

19.2.1. Unserviced markets

The inquiry has identified some unserviced markets where expansion of the taxi and hire car markets may be possible. It should be noted that the evidence for the potential of these markets is largely anecdotal.

- Pre-booked taxi market – There are significant opportunities for increasing the market for pre-booked taxi services. In principle, customers using these services are able to 'shop around' for the best price and service, unlike customers hiring taxis from busy ranks or hailing them in the street. Shifting more of the market towards pre-booked services means market forces can operate more effectively with less need for government intervention.

3 Anonymous submission to the Taxi Industry Inquiry, SS45, p.1

4 Una Gold, Submission to the Taxi Industry Inquiry, SS33, p.1

5 Ms Christine Fyffe, Op. Cit., p.2

6 Metropolitan Transport Forum, Op. Cit., p.6

7 DTF, Submission to the Taxi Industry Inquiry, SS179, August 2011, p.4

- Outer metropolitan market – With Melbourne's public transport network not keeping pace with growth in Melbourne's outer suburbs, there will be a growing market for taxi services in new residential areas that are beyond the reach of the public transport network. However, servicing this market is likely to require more flexible options and choices such as taxi-buses and share-a-fare services.
- Set route market – Across Victoria, there are geographic 'pockets' where existing bus services have very low or declining patronage or where public transport services are difficult to provide due to road, infrastructure or geographic limitations. These areas could be serviced by taxi-buses.
- Regional markets – An ageing population in regional Victoria will increase the demand for more flexible and accessible transport services. Taxis have great potential to meet this demand through more flexible services such as taxi-buses or by replacing bus services for small communities along routes with low patronage.
- Tourist market – Some taxi operators (mainly in regional areas) are developing services to accommodate the needs of tourists, including offering day tours of particular geographic areas, visits to local attractions or specialty tours such as gourmet food and wine tours. There is scope to expand this market in popular tourist regions, as well as within and around Melbourne.
- Young passenger market – Providing more flexible options targeted directly at young people such as shared services or late night shuttles from major entertainment precincts or local services that meet NightRider buses or late trains from the central city may encourage more young people to use taxis or public transport/taxi combinations.
- Non-emergency hospital and health services market – Incorporating taxi services into non-emergency patient transport services may be more cost effective and flexible than using ambulances.
- Hire cars – Hire cars may be able to play a greater role in providing accessible transport to mobility disadvantaged people, especially in regional areas. Hire cars could also assist in meeting peak demand for point-to-point transport.

19.2.2. Latent demand

Latent or potential demand is when potential taxi and hire car customers fail to enter the market because they believe the price is too high, waiting times are too long, the service is unreliable or some other factor.

Because their needs differ, different taxi user segments are likely to have different responses to price and other factors. For example, changes in service attributes are likely to affect the travel choices of corporate users in a markedly different way to international tourists; similarly, 'social' users of taxis may respond to a change in service conditions in a different way to users holding MPTP cards.

Ipsos consumer research

The Ipsos research commissioned by the inquiry found that more than half (52 per cent) of taxi users do not use taxis more often because of the cost. The research also found that a substantial number of people would use taxis more often if they were cheaper.⁸

This research supports anecdotal evidence to the inquiry that the demand for taxi services by particular groups of customers is strongly affected by price, most notably:

- Young people, especially younger males, appear reluctant to use taxis due to price. The inquiry heard anecdotal evidence that many young people prefer to drive to and from entertainment venues rather than use a taxi because of the cost. Some respondents feel this is a less safe option and that lower fares will not only increase the use of taxis by young people, but also reduce their risk of being involved in a motor vehicle accident.
- Cost is the major disincentive to using taxis for many people with a disability and other mobility disadvantaged people. This is particularly the case for people who are not eligible for the MPTP, but who cannot drive a car. Making taxi services more affordable may encourage more people in these situations to use taxis.
- More flexible and affordable options, such as set route services to shopping centres and shared ride services may allow more people on low incomes to use taxis for particular purposes.

The Ipsos research found that other significant factors influencing taxi use included cleaner cabs, more polite and professional drivers and greater availability of taxis.⁹

The inquiry's demand elasticity research

To address the lack of data around latent demand, the inquiry commissioned The Hensher Group to conduct research into demand for Victorian taxi and hire services to develop a better understanding of the key drivers of demand for various market segments, determine how taxi users and non-users are likely to respond to changes in key service attributes and better inform decisions about the effects of increasing fares or restructuring fare schedules.

⁸ Ipsos Social Research Institute (2012), Op. Cit. More than 30 per cent of non-taxi users also nominate cost as the main reason they do not use taxis

⁹ Ibid., Op. Cit.

Table 19.1 Summary of indicative elasticity results by user segment

Response to a 10% change from base value	Tourism	Business	Day-to-day	Night time travel	MPTP card holder	Average
Fare elasticity (10% increase)	-14.8	-6.4	-7.5	-11.3	-6.1	-10.4
Waiting time (10% increase)	-6.0	-2.3	-2.7	-3.9	-15.3	-3.9
In-vehicle time (10% decrease)	4.7	1.2	7.2	16.9	11.9	6.6

Source: The Hensher Group (2012)

The Hensher Group recruited over 500 customers across four key user groups to participate in face-to-face and phone interviews during February 2012 at major hotels, shopping centres and transport hubs in metropolitan Melbourne. The survey was limited to Melbourne due to time and cost considerations.¹⁰

The key outputs of the research include:

- How users are likely to respond to price changes for taxis and hire cars (price elasticities of demand)
- How users are likely to respond to changes in waiting times for taxis and hire cars (the waiting time elasticity of demand)
- How users of taxis and hire cars are likely to adjust their usage in response to changes in prices of other modes (cross-price elasticities of demand for potential substitutes or complements to taxi and hire car use, including private vehicles and forms of public transport)
- How users are likely to respond to changes in fare structure that change the price of short trips (price elasticities of demand relating to trip lengths)
- How specific user groups (such as holders of MPTP cards) are likely to respond to changes in prices and waiting times (elasticities pertaining to user segments).

Some of these key results of the research are summarised in Table 19.1.

The significance of these results is discussed in various sections throughout this report. For the purposes of identifying opportunities for increasing demand, the research shows that while fare rises are unlikely to increase the fare box, a reduction in waiting time may have an impact on demand. This suggests that if the industry can adopt measures to reduce waiting times (which may include making improvements in booking systems or providing new services such as shuttles or share rides), occupancy rates are likely to rise.

Waiting times and time spent in the vehicle have a significant impact on demand, as shown by the demand elasticity work. A 10 per cent fall in 'in-vehicle' time will increase demand by 6.6 per cent. One area where there is scope to expand taxi demand is to increase the access taxis have to bus lanes of freeways and major roads. This would also help to reduce congestion overall on the roads (see case study).

Inquiry findings

- ➔ Taxis and hire cars can play a greater role as providers of point-to-point transport, including tapping into currently unserved or under-served markets and latent demand, expanding into new markets and providing services to complement the public transport system.
- ➔ There appear to be opportunities available to grow the existing taxi market, even within the constraints of the current regulatory framework. Generally, the industry has failed to explore fully these opportunities.
- ➔ Adopting measures to reduce waiting time is likely to have a positive impact on demand for taxi services.

¹⁰ Full details of the survey methodology and results are set out in The Hensher Group Pty Ltd (2012), Demand for Taxi and Hire Car Services in Melbourne – Prepared for the Taxi Industry Inquiry, Melbourne. The full report is available at the inquiry's website

Taxi access to bus lanes

The question of priority access for taxis was raised with the inquiry as a means of improving industry performance. The inquiry considers that allowing taxis and pre-booked vehicles to use bus lanes would have a number of desirable effects for taxi users, as well as operators and drivers.

Allowing use of bus lanes should reduce travel times for consumers. The inquiry's elasticity of demand research indicates that reductions in travel times will have an effect on consumer's demand for taxi services. For example, as shown in Table 19.1, a 10 per cent fall in average 'in vehicle' travel time (around 2 minutes) would be expected to lead to a 6.6 per cent increase in demand for taxi service. This suggests that the potential gains to users could be very significant.

It should enhance the attractiveness of new and innovative taxi and other pre-booked services, particularly those taxi services that are used like public transport. This should enhance the flexibility and efficiency of the public transport system, and help move more people away from private cars – the closest substitute to a taxi service.

Finally, allowing use of bus lanes should reduce operator (and driver) costs by reducing the effects of congestion when running to a fare and increasing fuel efficiency by minimising vehicle stopping and starting. These outcomes will keep utilisation up and fares down, and contribute to the environmental sustainability of the taxi fleet.

The possible downside of allowing taxis to use bus lanes is the effect on bus users. More taxis and other vehicles in bus lanes could slow bus traffic and decrease bus service performance. The inquiry cannot quantify this effect, as it will differ depending on how heavily an existing bus lane is utilised. However, the inquiry believes that there is a case that many bus lanes are likely to be under-utilised and that extending bus lanes to taxi and other pre-booked vehicles would deliver a net benefit to the community. Changes to use of lanes should be subject to a regulatory impact statement process and then monitored by a suitable authority (likely to be either VicRoads or the DOT) to assess the impact of changes on the performance of buses.

19.3. Better integration with community and public transport

A number of organisations have called for the inquiry to not only examine the taxi regulatory framework, but also “how the taxi industry complements and is coordinated with the public and community transport systems”.¹¹ While these organisations are concerned mainly with improving transport services for mobility disadvantaged groups within the community, it appears that opportunities also exist to expand the taxi and hire car markets through better integration with the broader transport network. This is particularly the case in regional Victoria.

19.3.1. Taxis and community transport

Community transport is not-for-profit transport that is funded and operated by local councils, volunteer groups, community health centres and not-for-profit agencies. Community transport services aim to meet the transport needs of people with limited access to mainstream forms of transport, including people with a disability, older people, those on low incomes, those who cannot drive and those with limited (or non-existent) public transport options.

Community transport services have arisen largely in response to local unmet transport needs and include assisted door-to-door services, regular services to fill gaps in public transport, occasional trips for people who are ill or temporarily disabled, community vehicle sharing and the hire of vehicles to community groups. In many small towns, community transport is particularly vital in giving residents access to services and social and recreational opportunities in larger regional centres.

Services use a number of different transport modes, including cars, minibuses, brokered taxis or a combination of these modes and public transport.

Funding for community transport is typically fragmented and insecure, and often incorporates indirect funding for particular groups of customers, making it difficult to collect accurate data on the extent of services. Despite growing demand for services, many councils report they lack the capacity to expand their commitment to community transport.

Regional taxi users, local councils and people with a disability are particularly keen to see taxi services integrated more effectively with the community transport sector. For example, in its submission to the inquiry, the Municipal Association of Victoria (MAV) points out that community transport services are often a substitute for the lack of a local taxi service and that:

*Taxis need to be planned in conjunction with local community needs and integrated with public and community transport. There are good examples of taxis playing an important role in community transport for those with more limited mobility or where there is no appropriate public transport, [such as] centre based program bookings to bring clients to and from the service and appointments.*¹²

As well as proposals for better planning and integration between taxis and community transport services, the inquiry also heard calls for the industry to be more proactive in pursuing opportunities alongside community transport. For example, some taxi users suggest that taxi operators and community transport providers could work together in particular locations to ensure their services complement each other and to offer combinations of these services to their respective customers.

Others propose reforms that will allow greater ‘interoperability’ between community transport and taxis – where community transport vehicles can be used to provide ‘taxi’ services and vice versa.

At present, as taxi operators and others told the inquiry, the ability of local councils and community groups to use taxi services innovatively and flexibly is constrained by the requirements of the *Bus Safety Act 2009* and various government regulations and ‘red tape’.

As noted in chapter 16, the 2006 Country Taxi Review recommended that government departments work together to develop consistent approaches to procuring and brokering community transport projects, and that training materials be developed to encourage taxi use amongst community groups. These recommendations have not been implemented.

¹¹ VCOSS, Op.Cit., p.4

¹² Municipal Association of Victoria, Submission to Taxi Industry Inquiry, SS104, p.6

Case study

Timboon Taxis – a case study in innovation

Timboon Taxis, based in Victoria's south west, offers a range of services that extend beyond 'traditional' pick up and drop off services and tap into new tourist markets.

Services offered by the company include:

- Sightseeing tours of the Great Ocean Road that visit famous landmarks along Victoria's shipwreck coast
- Customised day tours from Melbourne (that can be extended to include an overnight stay package)
- A 'gourmet deli trail' tour visiting food producers in the south west
- Catering for bicycle tours, with bike racks on taxis, bicycles for hire and 'ride and stay' packages
- Transport to and from the Great Ocean Walk and the Crater to Coast Rail Trail
- A public transport service between Camperdown train station and Timboon.

19.3.2. Taxis and public transport

There is strong support from a number of community groups, regional taxi operators and taxi users for integrating taxis more closely with the broader public transport network and using taxis to replace or complement fixed route services in places with few public transport options. This support is summed up in the comments of one taxi operator:

Bus and public transport services should be part of the inquiry. Limited timetables, set routes with no flexibility or suitable for frail aged and disabled: we should all work together to assist our communities. The Department of Transport should grow with and evolve with all industry participants and services ... We need to identify how best to get everyone where they need to go and do it as a team to find the best answers for the future.¹³

As noted in chapter 4, the inquiry's view is that taxis are not public transport, but should complement and act as an alternative to public transport, especially in places with limited public transport options. In giving practical effect to this view, it is important that any reforms enhance – and do not detract from – the overall connectivity of the public transport network. To achieve this, it is essential – as the VTA notes – to “create a consensus between the community, government and the industry about the role of taxis within the broader Victorian public transport system”.¹⁴

A number of submissions note that taxi services are poorly integrated with public transport services. As VCOSS points out, Victoria has “...a long legacy of 'modal silos' and institutional inertia in achieving an integrated transport system”.¹⁵ The inquiry has been urged by local councils, community groups, transport experts and others to address this issue by:

- Ensuring that the taxi industry is located clearly within the broad public policy framework that provides accessible, affordable and safe transport for Victorians
- Developing a conceptual framework for taxis, hire cars and other point-to-point transport services that will improve integration with the transport network and provide a better process for making policy, service and funding decisions in relation to these services.

The inquiry notes that Victoria's new *Transport Integration Act 2010* explicitly aims to improve the integration of different transport modes. The inquiry supports the integration of taxis and hire cars into general public transport policy and planning and observes that, despite rhetoric to the contrary, such integration has not been a strong feature to date. However, the coverage of the new industry regulator – the Taxi Services Commission (TSC) – into the *Transport Integration Act 2010* raises other issues. While engaging with transport planners and contributing to integrated transport policy, the inquiry considers that the TSC should operate independently under its own Act.¹⁶

Inquiry findings

- ➔ The better integration of taxi and hire car services with community transport and public transport may generate new service opportunities for taxi and hire car operators, as well as improving transport options in a number of areas.
- ➔ Achieving this integration is envisaged by the *Transport Integration Act 2010*, but realising this in practice is likely to require a strong focus and specific action by the DOT.

¹³ Kimberly Erwin, Comment on Taxi Industry Inquiry Facebook page, 14 November 2011

¹⁴ VTA, Op. Cit., p.6

¹⁵ VCOSS, Op.Cit., p.4

¹⁶ This is discussed further in chapter 22

What happens in other places?

Rural Wheels Program, Cumbria, England

Rural Wheels is a council-run initiative to provide demand responsive taxi-based public transport services in selected parts of rural Cumbria which have high numbers of people with mobility difficulties and poor access to a private car. The program's aim is to meet the transport and travel needs of rural residents living in communities too small or too remote to access 'conventional' public bus services.

How does it work?

- Service is only available between 9am and 5pm.
- People must be members to access the scheme. Members contact the council to book a place at least 48 hours ahead of planned trip.
- Cumbria County Council contacts local taxi operators who are contracted to provide Rural Wheels services. The taxi operator confirms their ability and the travel requirements of the user, which is relayed back to the customer.
- Members pay 30 pence per mile by rechargeable smartcard, council pays the remainder. Council meets around 85 per cent of the cost of operating the service.
- Taxi operators provide the service between school bus contract times to enable them to fill their downtime and there is evidence that operators have expanded their business since the program was introduced in 2002.

19.4. Share rides and taxi-bus services

Under current regulations, a taxi can pick passengers up from different locations and drop off at one location. Where the passengers agree, drivers are permitted to pick up at one location and drop different passengers at different locations, with passenger/s at each location paying 75 per cent of the fare box at each drop-off location. This multiple-hire arrangement is little known and is confusing to passengers. What occurs in practice is that passengers agree on a likely 'end of fare' amount and arrange the final payment between themselves. Drivers usually accept this arrangement.

For multiple-hire arrangements to work, it generally requires an 'organiser' to gather a group of willing participants – passengers and drivers. For some people, it appears that the prospect of a 25 per cent reduction in the fare is insufficient incentive to give up the privacy of not sharing a cab.

As noted in section 19.2.1, many people consulted by the inquiry believe that there is considerable scope for the taxi industry to develop share ride or multiple hire services. There is also strong support for expanding the use of taxis to address gaps in the public transport network through a regular route, fixed fare service that is effectively a hybrid taxi-bus service.

19.4.1. Demand responsive transport

Using taxis for shared transport and 'bus type' work is not a new or 'revolutionary' concept. Taxi-bus services are common in other countries and date back to early American experiences with Dial-a-Ride, a form of 'paratransit' in the late 1960s that aimed to bridge service gaps between private vehicles, taxis and public transport.¹⁷

Share ride and taxi-bus services are often referred to as Demand Responsive Transit (DRT). While some taxi-bus services have been trialled in regional areas (see case study), Victoria trails other Australian states and other countries in using DRT services more widely.

The experiences of other jurisdictions show that successful DRT includes:

- Door to door bookable share rides
- Taxi voucher systems
- Taxis running on fixed routes as supplements to bus services
- Taxis booked to meet passengers at bus stops and train stops
- Set fares for individual passengers that are significantly lower than what would appear on the taximeter for the same distance travelled
- Advertised hours and operating routes.¹⁸

¹⁷ Kirby, R. et al (1974), Para-Transit. Neglected Options for Urban Mobility. The Urban Institute, Washington DC. 'Paratransit' refers to an alternative mode of flexible passenger transportation that does not follow fixed routes or schedules

¹⁸ Commission for Integrated Transport (2008), *The role of taxis in rural public transport: Final Report*, Completed by Mott MacDonald for CFIT, Great Britain

Case study

Paynesville to Bairnsdale Share-A-Fare service

Between December 2010 and February 2011, Riviera Taxis trialled a Share-A-Fare service along an existing bus service route between Paynesville and Bairnsdale. The taxi operator was granted a time-limited special exemption to operate the service as it competed with an existing bus route.

Share-A-Fare was a demand responsive door-to-door service that operated on a pre-booked basis, with passengers required to book with the taxi company the day before. The service used a 10-seat wheelchair accessible taxi (WAT) and was offered on a fixed fare basis, which was lower than the full metered fare.

Share-A-Fare aimed to make better use of an existing daily 'run' by Riviera Taxis between Paynesville and Bairnsdale, which the company operated under a service agreement with a local disability organisation. The new service allowed other members of the community to also travel to and between these towns on a regular basis.

The service was self-funded (no government subsidies), was popular with local residents and was demonstrating the ability to become a valued local transport service. However, it was terminated in February 2011 after failing to comply with bus regulations.

As a 10-seater taxi, Share-A-Fare fell under the classification of a bus service when the new *Bus Safety Act 2011* was introduced at the end of 2010. This meant that the service was required to register with Transport Safety Victoria and could no longer operate without a service contract (under the *Bus Services Act 1995*).

The issue was complicated by a local bus operator having 'exclusive rights' under the *Bus Services Act* to operate in the local area. This meant that the Government could not offer a service contract to any other bus operator without a long procurement process. Due to these complications, and the objection of the local bus operator, the Share-A Fare service was terminated.

The local bus operator suffered no financial loss as a consequence of the Share-A-Fare service and has expressed no interest in providing the same service.

Many of these services are not permitted under Victorian legislation, meaning that any taxi operator who is inclined towards innovative practices and better fleet utilisation is effectively restricted by the current regulatory regime from pursuing these options. Regulations covering bus services also constrain the development of these services (see case study).

In its 2008 fare review, the Essential Services Commission noted:

...[one] issue that has been raised by stakeholders is the potential benefit of shared ride taxi services in the context of providing alternative forms of public transport, in regional areas or outer suburban areas. There are concerns that a number of bus services in country towns are under-utilised, and that taxis (specifically, high occupancy vehicles) could provide a comparable, or better service at lower cost. DOT has previously expressed similar views.

*The Commission sees considerable merit in the further exploration of the benefits and costs (including budgetary implications) of adopting these types of transport services in Victoria, and reviewing whether such services could represent a substitute for conventional bus services in some locations.*¹⁹

19.4.2. Restrictions on taxis providing bus-like services

While there is strong community support for making better use of taxis to provide DRT, these markets have not been developed. This appears to be due partly to regulatory barriers and partly to the taxi industry's low levels of innovation.

A number of responses to the inquiry are highly critical of the negative impact of current bus legislation on the expansion of taxi services, particularly in regional Victoria. As Alan Scarlett, Executive Officer/Campus Manager at Monash University's Gippsland campus, observes:

¹⁹ ESC (2008b), Op, Cit., p. 288

Bus regulations and contract coverage of bus operators restrict taxis and other services from responding to customer needs.²⁰

Bus Safety Act 2009

The *Bus Safety Act 2009* provides for the safe operation of buses in Victoria and sets out principles of shared responsibility, accountability for managing safety risks, enforcement, transparency and consistency, participation, consultation and the involvement of all affected persons.

Under the Act, a bus is defined as a motor vehicle built with seating positions for 10 or more adults (including the driver), which complies with the Australian Design Rules for a passenger omnibus. An operator who proposes to use a taxi-cab that falls within this definition to provide a bus service must apply to the Safety Director for registration or accreditation.²¹ The Safety Director may impose conditions in respect of the registration or accreditation as considered appropriate. In determining conditions, the Safety Director must consult with the licensing authority under the *Transport (Compliance and Miscellaneous) Act 1983*.

Under section 22, the Safety Director determines the manner and form for accreditation. Transport Safety Victoria (TSV) has informed the inquiry that, under current regulation, a taxi operator will need to apply for registration if they wish to operate a bus service.

This additional layer of regulation acts as a significant deterrent to operators wanting to offer new taxi services and, in the inquiry's view, is a duplication of regulatory requirements as taxis are already subject to safety-related requirements under taxi regulation.

During discussions held with TSV, the inquiry was told that TSV will not object to the *Bus Safety Act* being amended to make this process less burdensome.

Bus Services Act 1995

The *Bus Services Act* establishes a system of service contracts for certain types of bus services and sets out the service standards that apply in the provision of bus services. The *Bus Services Act* applies to taxi-cabs that meet the definition of a 'bus' under the *Bus Safety Act*.

Under section 25, a regular passenger service²² must be operated under the authority of a service contract. The Public Transport Development Authority may invite accredited persons to tender for a service contract. The service contract sets out the terms and conditions under which the service may be operated and includes (amongst other things) the period of operation, scale of minimum service levels, fares to be charged and remuneration for services.

Under section 28, service contracts must specify a region or route of operation and may confer on the holder of a contract the exclusive right to operate regular passenger services.

Sections 30D to 30K describe the process to be followed when the Director considers a new regular passenger service should be provided and one or more existing service contract holders will be affected. The Director must give each 'materially affected service contract holder' (defined in section 30B) an opportunity to negotiate for the right to provide the new regular passenger service.

Exclusivity enjoyed by current bus operators is a significant impediment to the creation of niche taxi services along bus corridors.

Inquiry findings

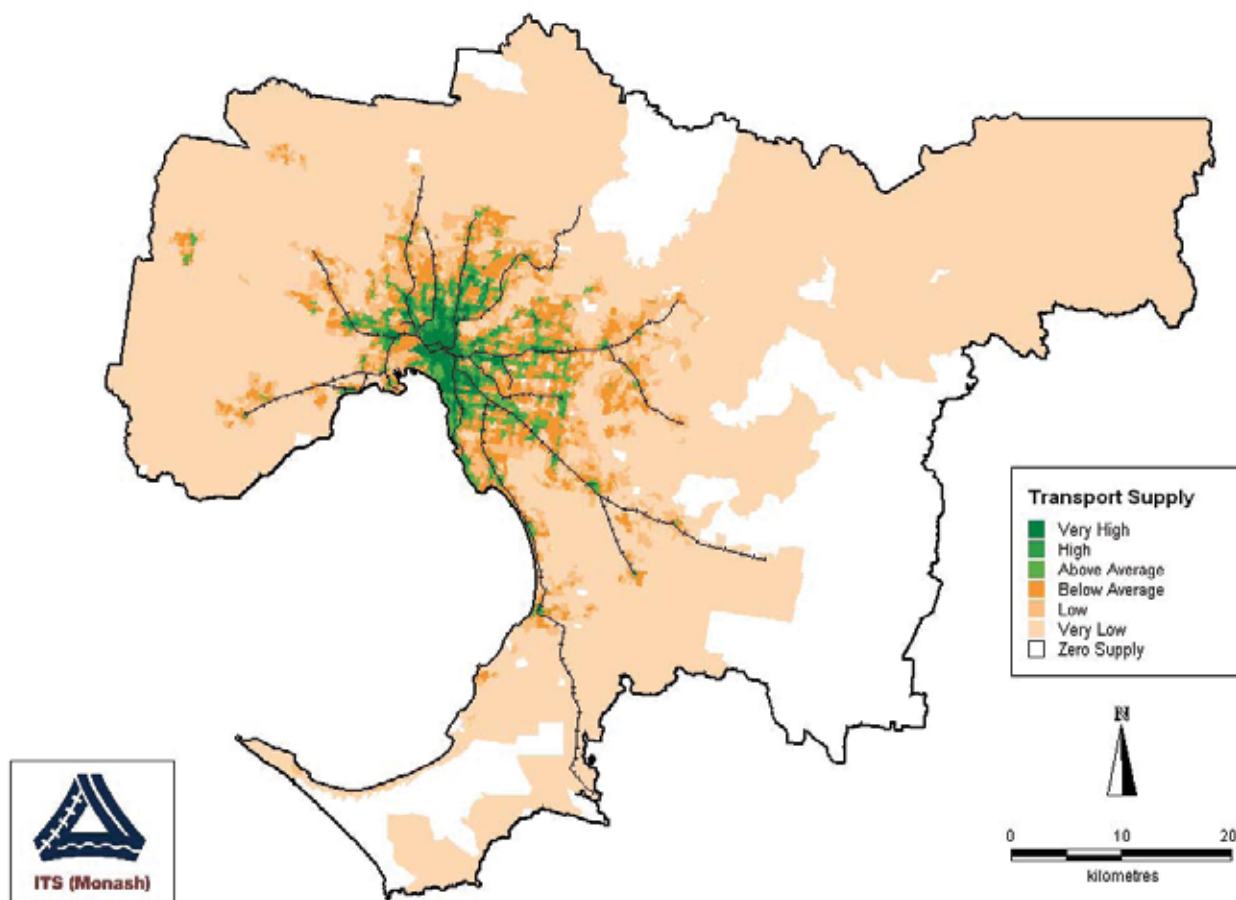
- ➔ Unnecessary and duplicative 'red tape' is preventing the growth of regular fixed route and demand responsive taxi-bus services. This not only stifles the potential for innovation in taxi services; it also restricts the Victorian Government's ability to procure effective and 'value for money' transport services in places and at times where patronage is low.
- ➔ Vehicles licensed as a taxi and operators accredited to operate a taxi should not also be required to obtain registration or accreditation under the *Bus Safety Act* to provide demand responsive or set route services on a regular basis.

²⁰ Response to 'Taxi services and what they mean for regional Victorians', provided to the Taxi Industry Inquiry by Alan Scarlett at the Traralgon regional forum

²¹ Section 23 *Bus Safety Act 2009* (Vic)

²² A regular passenger service means, amongst other things, a demand responsive service (being a service consisting of the carriage of passengers by a bus for hire or reward within a specified area on a regular basis along a route which varies in accordance with the demand of prospective passengers and for which passengers are each charged a separate fare) and a route bus service (being a bus service consisting of the carriage of passengers by a bus for hire or reward operated along a fixed route on a regular basis)

Figure 19.1 Distribution of transport supply – metropolitan Melbourne



Source:

19.4.3. Demand for taxi-bus services

An expansion in taxi-bus services has the potential to fill some gaps in the transport market, particularly in areas with limited access to public transport.

Demand in outer Melbourne

Research conducted in 2007 on spatial gaps in Melbourne's public transport network found that 8.2 per cent of Melbourne residents have very high transport needs but zero, low or very low public transport supply.²³ Areas with the highest needs were almost exclusively Melbourne's outer suburbs, including the Mornington Peninsula, Yarra Ranges, Casey and Cardinia, as shown in Figure 19.1.²⁴

The Mornington Peninsula and Yarra Ranges also have relatively low numbers of taxis per head of population and demand for taxi services in these areas, particularly at key times of the year, greatly exceeds supply.

Areas of low or zero public transport often have higher levels of car ownership or car reliance; a pattern that is evident in Melbourne's outer suburbs.²⁵ Where households own and operate several cars, this places greater pressure on household expenditure, particularly in low income households. In these circumstances, people may rationalise the number of trips they take by taxi, which has negative implications for social inclusion and for improving taxi occupancy rates.

The inquiry is aware that investing in public transport is not always effective in some of these outer metropolitan areas, as factors such as geographical terrain and housing density can make it difficult to run these services. There may be an opportunity in some of these locations for an alternative transport service, such as taxi-buses, that can operate flexibly to meet the needs of local communities.

²³ Currie, G. and Senbergs, Z. (2007), *Identifying spatial gaps in public transport provision for socially disadvantaged Australians – the Melbourne 'Needs Gap' study*, Australasian Transport Research Forum

²⁴ The inquiry notes that, since this research was undertaken, improvements have been made to the public transport network including new bus routes and expansion of some existing routes, expansion of the NightRider program, increased services on train lines and the purchase of new trains and trams

²⁵ Currie, G. and Senbergs, Z. (2007), *Exploring forced car ownership in metropolitan Melbourne*, Australian Transport Research Forum

Case study

Victoria's Transport Connections Program²⁶

The Transport Connections Program (TCP) is a Victorian Government initiative that supports people and organisations to work together to improve access to services for transport disadvantaged communities. TCP is led by the Department of Planning and Community Development, in partnership with the Department of Human Services, Department of Health, Department of Transport and Department of Education and Early Childhood Development. The program has three phases:

- Phase 1 (2003 – 2006) – identifying and addressing the access needs of transport disadvantaged people in rural and regional Victoria
- Phase 2 (2006 – 2010) – 32 projects commenced across Victoria
- Phase 3 (2010 – 2013) – innovative and efficient responses are being trialled to meet the needs of people with limited transport options.

The inquiry is aware that a number of taxi-bus services are being piloted through the TCP, with decisions to be made on future recurrent funding by the Department of Transport.

Demand in regional Victoria

As discussed in chapter 16, local councils, businesses and community groups in regional areas believe that taxis have the potential to fill service gaps in regional communities where public transport options are few or non-existent.

While 'regular' bus services provide vital transport connections in regional Victoria, they require passengers to get to a bus stop and fit their schedules around a bus timetable. This is particularly difficult where there are relatively few timetabled services. For example, many regional bus services do not run on weekends. In many small towns, services to and from larger regional centres may only operate once a day or – in some places – every second or third day.

A taxi-bus service may open up a new customer base for regional taxi operators, with the potential to service late night demand, new tourism markets and remote towns and communities with few public transport options.

Demand for late night services

Another potential opportunity exists for 'new' taxi services in the Melbourne CBD on Saturday and Sunday in the early hours of the morning. Taxi-bus or share ride services could help to move large numbers of people out of the CBD quickly and safely, and at a lower cost per passenger than the metered fare.

Since 2005, Brisbane has been operating a successful flat fare, share ride taxi service – known as Nightlink – to address similar problems with poor transport availability late at night in the city's CBD. Nightlink operates from four dedicated secure ranks in the CBD/Fortitude Valley on Friday and Saturday nights. Marshals at the ranks organise people travelling in the same direction to share a taxi, with fixed fares determined by zones and the number of passengers in the taxi. These fares are cheaper than a standard taxi fare to the same destinations. The fare is paid to the driver at the start of the journey and only cash payments are accepted.

While Nightlink is specifically targeted to later night journeys, the flat fare, share ride service may also have potential in other instances, such as trips from larger railway stations during peak periods or to and from popular CBD destinations that are often the subject of short fare refusals.

²⁶ See www.dpcd.vic.gov.au/communitydevelopment/regional-programs/transport-connections

Demand for new service types

As noted earlier, many people have highlighted what they see as a service 'gap' in the transport network: the ability to access share rides or taxi-buses as an alternative to 'traditional' taxi and bus services.

The Ipsos customer research commissioned by the inquiry canvassed the concepts of share rides and taxi-bus services in focus group discussions, noting:

There were mixed responses to a number of the suggestions. Some were highly enthusiastic about the idea of fare sharing. This idea was often raised by participants un-prompted, and was also raised by non-users as a key improvement that might encourage them to use taxis. Fare sharing was seen as overcoming the often prohibitive cost of taxis, especially for long trips. Some also commented that it would be more environmentally friendly, as there would be less taxis on the road. In situations where taxis are scarce and there are often long lines at ranks, sharing the fare could also mean getting to one's destination much quicker.

Being able to share a cab would really reduce the fare and be good for the environment.' (Non-taxi user)

If I was with a group and could share the fare I might be tempted.' (Non-taxi user)

I don't mind sharing if it's going to get you home quicker.' (Regional taxi user)²⁷

The share ride options tended to be most popular among those for whom the cost of taxis is a barrier, those who use taxis late at night when demand is high and those who access cabs through a taxi rank. Participants thought that such an approach would work best at busy taxi ranks, in the city and at the airport. Few could articulate exactly how this arrangement might work, but some saw it as a simple system where those waiting at a rank would be encouraged to find out from others if they were going in the same direction, and agree to share. Others envisaged an internet meeting place or smartphone app, where potential passengers could find others in their area looking to catch a taxi at the same time and make contact with each other.

Similar responses were voiced with regards to the taxi-bus concept. Some thought it was a great idea that would considerably cut the cost of taxis, while still providing a door-to-door service. The concept was especially popular among people for whom the cost of taxis is prohibitive. However, for others, such a service eliminated the benefits of taxis: speed, convenience and privacy.

As previously noted, one inhibitor to share ride services is the rigidity of the multiple-hire fare. If the inquiry's proposal for maximum fares, rather than set fares, is adopted, it will be possible for larger discounts to be offered to passengers for share rides. In addition, licence conditions have inhibited share rides by requiring that no more than the meter charge be levied on the passengers involved. The inquiry has been advised of one instance where the Victorian Taxi Directorate refused to grant a permit for a 'share a fare' service proposal on the basis that the four passengers involved would be charged \$10 each by the operator when the expected metered rate for the trip involved was \$35.

²⁷ Ipsos Social Research Institute (2012), Op. Cit., pp 88-89

What happens in other places?

TaxiTUB, Douai, France²⁸

TaxiTUB is a demand responsive public transport service that uses taxis along fixed routes, stops and timetables and covers a region of 180,000 people in the north east of France.

How does it work?

- The scheme is run by the local public transport authority.
- TaxiTUB's fleet of 28 vehicles (four to eight seats) provide three types of service: demand responsive transport that runs on 23 corridors; a service that replaces regular urban buses on Sunday mornings; and a regular shuttle service that takes over on market days.
- Services must be pre-booked with TaxiTUB at least an hour before a timetabled departure time.
- Bookings are handled automatically by voice recognition software. When a booking is made, the server looks for an available taxi. Each taxi service has agreed hours of the day when they can work for TaxiTUB and is only contacted during these hours. The taxi operator then accepts or refuses the trip.
- Once accepted, the server communicates the passenger and departure details and a reference number.

Scheme costs are subsumed within the wider public transport budget for the local area. Taxi operators are reimbursed by the local public transport authority on a kilometre rate, which includes commercial and dead run kilometres. Between 1994 and 2006, the number of TaxiTUB trips increased from 1,537 to 41,982.

19.4.4. A new regulatory framework for taxi-bus services

To explore the potential for taxis to move into 'new' service areas, the inquiry formally requested the Department of Transport (DOT) to provide a comprehensive list of Victorian bus routes that could deliver greater value for money and improved community transport services if taxis could be used in place of buses.

The evidence provided by the DOT and submissions to the inquiry indicates that improved local transport services could be delivered through a new regulatory framework that would include considering taxis to fill a public transport service gap in certain instances, such as where patronage is expected to be low and social need is high. This could include particular regional or outer suburban areas or places where infrastructure restrictions (such as hilly terrain or narrow, winding roads) limit bus access.

The new framework could cover (but not be limited to):

1. Service/s that are commercially viable for a taxi, but that are not viable for a bus
2. Service/s that are commercially viable for a taxi or a bus, but where the taxi is more economical and/or efficient than a bus
3. Service/s that are not commercially viable for a taxi or a bus, but where there is severely limited or no public transport available and it has been determined by a relevant authority that there is a need for such a service and the service could be delivered more economically or efficiently (with less subsidy) by a taxi.

These services may or may not compete with current or future bus services and, as discussed in chapter 10, could act as a complement to other publicly funded transport services.

Inquiry finding

- ➔ The taxi industry's ability to develop new services – and government's ability to provide improved transport services to communities with a clear need for more services – is being stifled by the current regulatory framework. A new framework should be considered to address this issue.

²⁸ The Commission for Integrated Transport (2008), The Role of Taxis in Rural Public Transport, Case study reports

19.4.5. Future funding options

The inquiry's view is that regulation should not stand in the way of services that develop in response to customer demand and this should include taxi services that will potentially compete with government-funded bus services. Where a taxi operator believes a commercially viable service is possible, there should be as few constraints as possible on providing such a service.

Successful overseas examples indicate that the cost of the service should be predetermined, clearly advertised and significantly less than what otherwise would have been displayed on the taximeter. A fixed fare passenger price structure may need to be developed and included within the broader fare structure. Any taxi-bus services and pilots should not be restricted by a 'fare-box decision' and, wherever possible, services should be self-funded by the taxi operator from the fare box and by those customers whose transport access will be improved.

In some areas, it may be appropriate for government to procure services directly. One consequence of the current regulatory framework is that local councils and the Victorian Government are restricted in directly procuring taxi-bus type services to fill transport gaps. An example of the effects of this restriction occurred in Gippsland in January 2008 when the DOT launched a taxi-bus type service in Lakes Entrance, called Lakes Transit. The service comprises four fixed routes within Lakes Entrance, with wheelchair accessible taxis (WATs) operating on three of the routes. A high occupancy taxi was chosen to deliver the service due to predicted low passenger numbers and road design limits on using a large bus. The current restrictions on bus services meant that the DOT had to contract the service through a local bus operator via a bus service contract, rather than contracting directly with Lakes Taxis, the local taxi company. As a result of this 'fix' to deliver an appropriate and much-needed transport service, the Government incurred significant administration costs.

Legislative amendments (including to the *Bus Safety Act* and the *Bus Services Act*) should be made to allow direct contracting with the taxi company, removing the need for a bus service contract and reducing the Government's costs. Through these direct contracts, the Government may choose to procure services that are wholly or largely self-funded (through the fare box) or elect to fully or partially subsidise services that are not financially self-sustaining in areas of predicted low patronage and low future growth. To contain costs, the Government could limit aspects of a service, such as restricting operating hours or routes.

19.4.6. Potential constraints

Even with reduced regulatory barriers to the development of taxi-bus services, there are likely to be disincentives and constraints to the widespread use of these services. The main constraints appear to be:

- Taxi availability – It is doubtful that sufficient taxis are available at present to meet the needs of any emerging taxi-bus market. Additional licences would need to be made available to service this market.
- Opposition from bus operators – Current bus operators are unlikely to support changes to regulation that free up the conditions under which taxi-bus services can operate. Victorian bus operators benefit financially from exclusivity on bus routes and are likely to take the view that the government is contractually obliged to offer subsidies for any 'bus type' service to existing operators.
- Low levels of industry innovation – Overall, the taxi industry has not demonstrated high levels of innovation or interest in developing new services. NSPs in particular have not been as astute as they could have been in this area. While a new regulatory framework may open up new opportunities, in the absence of widespread industry support, the take-up of these opportunities may be limited to individual taxi operators or companies, mostly in regional areas.

What happens in other places?

PubliCar, Switzerland²⁹

PubliCar is a fully flexible demand responsive door-to-door minibus service in Switzerland that operates in sparsely populated areas (under 100 persons per square kilometre). The service was developed by the public transport operator Swiss PostBus, commencing as a pilot project 1995 and expanding continuously over the years to now service 32 areas nationwide and abetween 20,000 and 30,000 passengers each year.

PubliCar is seen as being a complement or alternative to traditional public transport. It not only offers flexible transport for areas of low population density, but also for small towns and during times of low demand, such as week nights.

How does it work?

- Passengers call a free number to book services via two centralised call centres (one for German-speaking customers and the other for French-speaking customers). The call centres bundle demands where possible to ensure the most efficient use of the minibuses.
- The drivers of the minibuses are informed via SMS about the requested trips. Depending on the area and complexity of the journeys requested, either drivers arrange the routes themselves or an optimal route is calculated using special software in the call centres.
- PubliCar is fully publicly funded, with users paying a relatively low fee to use the service.
- The main trip purposes of the services users are leisure activities (38 per cent), commuting (27 per cent), visits to doctors and hospitals (16 per cent) and shopping (13 per cent).
- PubliCar has also developed a franchising system that enables it to assign the service to regional or local private transport companies or private vehicle owners.
- The introduction of PublicCar was driven by the cancellation of some traditional bus routes with low demand and low cost recovery (less than 20 per cent). Cost recovery for PubliCar is currently around 25 per cent.

²⁹ See case studies at www.osmose-os.org

Technology as a force for change

As mentioned in various sections of this report, new web-enabled and mobile communications technologies have great potential to expand taxi and hire car markets and improve services.

Technologies that can boost the speed and reliability of booking services and provide direct customer-to-driver communication are the focus of many comments and suggestions to the inquiry – such as mobile phones, smartphone apps, the internet and ‘cloud’ computing. These technologies are seen by taxi users, businesses, community groups and transport experts as allowing a different dynamic and interaction between drivers and customers, potentially blurring the distinction between pre-booked and hailed taxi services and raising the possibility of providing an alternative to the traditional role of booking and dispatch networks.

In particular, smartphone technologies and applications, combined with GPS tracking, can now perform highly sophisticated geographic targeting and filtering – allowing real-time information sharing between customers and taxi drivers, better matching of supply with demand, more competitive pricing of taxi services and more incentives for drivers to provide high quality taxi services. Smartphone apps can be used to pay taxi fares, bypassing current payment instruments and processing systems. They can also be used to provide feedback to customers from other taxi users on driver quality.

Cloud computing – sharing resources, software and information over a network – offers the potential for drivers to receive bookings from a central ‘cloud’ network maintained remotely via computer servers, without the need for taxis to be connected to a physical dispatch network.

Technological developments may also increase service options to customers, potentially growing the overall market for taxi services. They may have the effect of increasing the attractiveness and extending the reach of booking services, expanding the size of the pre-booked taxi market and reducing the importance of hailed taxis and services accessed at ranks. They may also play a role in increasing competitive behaviour by providing devices or kiosks at busy ranks where passengers can seek quotes from different providers or select from a range of transport options such as regular taxis, ‘premium’ services, hire cars and other forms of point-to-point transport.

Changes in technology may also pick up latent demand in a number of areas. For example, offering more online and smartphone options to book and pay for taxi services may encourage higher numbers of casual users to consider taxis as a reliable transport option.

Inquiry findings

- ➔ New smartphone apps, GPS technology and other innovations are likely to evolve to give customers more service options and directly empower taxi operators and drivers to deliver more responsive and reliable services independently of booking and dispatch networks.
- ➔ These technologies also open up the prospect of growing the taxi and hire car markets through picking up latent demand and providing more personalised services.
- ➔ It is important that these new service offerings are not precluded by regulation to the detriment of customers and industry participants.

Chapter 20.

20. Fares

Key messages

- Allowing taxi networks or operators to set their own fares is an appropriate medium- to long-term goal for the Victorian taxi industry and necessary to support broader competition-based reform. In the short-term, the regulation of taxi fares should continue in metropolitan and regional zones. However, it should be possible to remove fare regulation in smaller country zones immediately.
- Although fares cannot be deregulated in urban areas immediately, a change from prescribed fares to maximum fares will allow networks and operators to offer lower prices, and is an appropriate first step towards a withdrawal from fare-setting.
- The open and transparent fare-setting process introduced in 2002 involving the Essential Services Commission was a key step in further exposing both the structural problems of the taxi industry and the inability of fare regulation to deal with these problems.
- Under current industry conditions, fare rises primarily serve to maintain or increase licence values. Fare rises cannot solve driver remuneration problems in the long term.
- The current fare-setting approach that relies on measuring changes in costs from a cost base that includes existing profits and notional payments to drivers contributes to poor industry outcomes.
- Fare setting should also take greater account of the demand conditions for taxi services. Where low utilisation is caused by low levels of demand, fare rises can make the industry's performance worse. This is supported by inquiry commissioned research on the price sensitivity of demand, which indicates that fare rises are unlikely to raise industry revenue. This emphasises the need for fare restraint.

- Many taxi operators told the inquiry that they are under significant financial stress. Yet very few operators submitted detailed actual cost information in support of a fare rise and little industry information is collected on how much revenue operators actually earn and how well utilised their vehicles are.
- Future fare rises should be linked to the inquiry's proposed reforms. Fare rises should be based on more reliable industry data than is currently available.
- The inquiry considers that fares should be more responsive to rapid changes in certain costs, in particular LPG. This responsiveness should be symmetrical: lower costs as well as higher costs should be passed through to consumers.
- The current fare structure is contributing to undesirable practices (short fare refusals) and inefficient behaviour (airport crowding). Increasing the flagfall and reducing the distance charge will change these incentives and provide a better balance for consumers and drivers. The inquiry seeks feedback on the size of the adjustment.
- Fare structures also need some adjustment to better reflect the costs of increasing driver payments proposed by the inquiry.
- Simplifying 'multiple hire' fare charging is necessary to support the industry to be able to offer more flexible, innovative shared ride type services.

20.1. Introduction

As discussed in chapter 7, taxi markets have certain characteristics that might support fare regulation. In Victoria, entry controls provide a basis for such regulation, but even in the absence of entry controls maximum – not fixed – fare regulation may continue to be required. The inquiry considers that it is timely to ask questions about improving the performance of fare regulation, including its nature and extent.

As noted in chapter 10, taxi fares in Victoria are set by the Minister for Transport. The Minister must obtain reports from the Essential Services Commission (ESC) and the licensing authority prior to changing the schedule (s 144A *Transport (Compliance and Miscellaneous) Act 1983*). There is no requirement for a particular structure of prices or scope of the price regulation.

Hire car fares are not regulated. Fares are negotiated between hirers and customers prior to commencing the trip.

The last ESC taxi fare report was presented to the Victorian Government in August 2008. It recommended that fares be changed annually for the next three to five years, using a cost indexing approach that would measure changes in both industry-wide and economy-wide cost or price indexes. The ESC included a small productivity improvement allowance. It also recommended some changes to bailment agreements and assignment fees. The Government accepted the fare recommendations – although it only enacted the initial proposed fare increase – but not the other recommendations.

The terms of reference for the inquiry ask for options for reform, including appropriate market-based, legislative and administrative solutions. They also ask for an examination and evaluation of other models and approaches, both in Australia and overseas.

In this section of the report, the inquiry sets out its views on:

- The alternatives that are available to fare regulation, including models used in other jurisdictions
- How to improve the regulation of taxi fare levels, including incorporating appropriate changes to fares over time (accepting that some ongoing regulation of fares is likely to be justified)
- How the specific elements of the fare structure should be changed or simplified, including the balance between flagfall and per kilometre charges, as well as other surcharges.

20.2. Options for removing or improving taxi fare regulation

As noted in chapter 10, the kind of fare regulation used in Victoria imposes significant costs on consumers, taxi operators and drivers.

Regulation of fares is the strongest intervention that can be made to correct excessive pricing problems caused by market failure. Other, less restrictive forms of market intervention are available and, in principle, these interventions might lessen some of the costs associated with fare regulation. These alternatives are discussed in this section.

The key question is whether the benefits of alternative, less costly regulations will deliver the same or more net benefits to consumers as fare regulation. This in part depends upon whether these interventions can help to increase the effectiveness of competition in markets for taxi and hire car services.

20.2.1. Conditions required for effective fare competition

Economists often use the concept of economic efficiency to compare the outcomes of different policies. This is because greater efficiency means the community is getting more out of the limited available resources. In the context of taxi fares, a more efficient fare is one that is closer to the marginal costs of producing the particular trip.

The marginal costs of a trip are the (opportunity) costs of those resources that are consumed in just producing that trip. Broadly, these costs are the costs of running the vehicle and the costs of the driver's time. Marginal costs do not include costs that are fixed with respect to any one trip, such as the cost of leasing the vehicle. Overall, however, fares must be set to allow recovery of all of an efficient operator's costs, including those that are fixed. For operation to be viable, fares must be above marginal cost, at least for some trips.¹ This means that while marginal cost is the appropriate efficiency benchmark, in most (if not all) industries it will not be possible to achieve fully-efficient prices.

Well-functioning competitive markets would produce taxi fares that would allow for the recovery of efficient costs and minimise problems that come from not being able to set fully-efficient prices. However, if the markets in which taxi services are provided are not functioning effectively or competitively, then it is possible that fare regulation may be able to improve on the unregulated outcome. On the other hand, fare regulation can also be costly (as discussed in chapter 10).

¹ Assuming no government subsidies or other means to recover revenue outside of the 'fare box'

The inquiry would be reluctant to recommend removal of fare controls if the markets in which taxi and hire car services are supplied are unlikely to be sufficiently competitive. Defining what is meant by 'sufficiently competitive' requires a degree of judgement. In principle, the concepts of 'effective' or 'workable' competition are useful ones that can provide guidance on the conditions that might support the removal of existing fare regulation. The Australian Competition Tribunal has provided some analysis of these concepts and has suggested conditions that, if met, should provide some confidence about market competitiveness:

In the Tribunal's view, a market is sufficiently competitive if the market experiences at least a reasonable degree of rivalry between firms each of which suffers some constraint in their use of market power from competitors (actual and potential) and from customers. The criteria for such competition are structural (a sufficient number of sellers, few inhibitions on entry and expansion), conduct-based (e.g. no collusion between firms, no exclusionary or predatory tactics) and performance-based (e.g. firms should be efficient, prices should reflect costs and be responsive to changing market forces).²

As identified and discussed throughout this report, there are currently some fundamental barriers to competition that suggest that Victoria's taxi and hire car market would not be sufficiently competitive, even though there are large numbers of suppliers of services:

- The current restricted licensing arrangements prevent new entry.
- Taxis have some short term (temporal) market power in particular situations, such as where demand is widely distributed spatially and the costs of searching for another taxi are high.
- This market power is worsened by industry conventions: in particular, the convention that consumers must take the first taxi on the rank. This reduces the benefits to taxis from offering lower fares.
- The market is highly fragmented, with large numbers of taxi operators – meaning that in many circumstances it is difficult for consumers to choose their preferred taxi 'brand'.

In principle, none of these problems seem insurmountable. The inquiry has seen evidence in other jurisdictions that consumers are much more aware of the different prices, qualities and 'brands' of taxi services and make their choices accordingly. However, these problems do raise important questions of what has become known in economics as 'market design': how should market institutions work so that consumers are able to exercise an effective choice – rewarding operators offering good service and/or low prices and penalising those offering poor service and/or high prices?

An obvious example is that the taxi industry is currently structured as many small licence holders and operators, with highly concentrated networks (often monopolies in country areas). Issues may emerge if each taxi is allowed to offer a different price as it would be difficult for consumers to understand the different kinds of offers and to exercise an effective choice even in situations where such a choice may be possible (such as at a rank). Allowing only networks to set prices also seems undesirable given the current levels of market concentration and may prevent fare competition emerging between different taxi operators. This suggests that a pre-requisite for fare competition is a greater degree of competition between taxi networks. This might be established with a much freer licensing regime and by removing barriers to becoming a taxi network (such as relaxing current requirements for service coverage at all times of the week).³

² Application by Chime Communications Pty Ltd (No 2) [2009] ACompT 2, p.48

³ The inquiry's analysis and findings in relation to networks are set out in chapter 11

Distinguishing between pre-booked versus rank and hail market segments

In any analysis involving the removal or relaxation of fare controls, it is important to make a distinction between taxis taken from ranks or hailed down, and pre-booked vehicles.

For vehicles procured at a rank or through hailing, the inquiry considers that fare competition is a remote prospect under the current industry structure. Two important changes must occur before fare regulation could be removed for hailed taxis or those taken from a taxi rank:

- Consumers must have an enhanced ability to choose between competing taxis (whether individual operators or belonging to a network), particularly at taxi ranks. Informing consumers about their options and accommodating changes in consumer behaviour at ranks, particularly busy ranks such as Melbourne Airport's, will require education of both consumers and drivers as to their rights and obligations under the law.
- Prices will need to be offered by competing taxi *companies* (not necessarily networks). For competition to provide pressure on fares, there must be a sufficient number of taxi companies and low barriers to the entry of new taxi companies.

In the metropolitan Melbourne market, around 70 per cent of trips are not booked through network service providers (NSPs), with the large majority of these trips likely to be taken in vehicles taken at ranks or hailed from the street. There are only three NSPs operating in this market, with two networks holding over 45 per cent market share each. This suggests that fare competition for rank and hail vehicles is unlikely in Melbourne in the short term, unless and until the two conditions listed above are met.

However, it seems possible that competition could exist for pre-booked vehicles even with the current industry structure in Melbourne. Pre-booked vehicles include taxis booked through the NSPs, taxis booked through secondary networks and individual drivers, as well as hire cars. As noted in chapter 10, the market failure rationale for regulating the prices of pre-booked services is not compelling. Customers are in a much better position to know something about the quality of the service they are booking, can know more about prices and face much lower search costs, increasing their ability to compare different taxi services. In other words, these types of services are more likely to operate in a reasonably competitive environment (except, of course, for the restrictions on taxi licence numbers).

The inquiry's proposed loosening of restrictions on hire cars will also tend to increase competition in the pre-booked segment of the market.

For these reasons, it may be possible to remove fare controls entirely for this segment. This may have a stronger impact than merely changing fares to maximum fares and allowing discounting of pre-booked services. The inquiry also considers that there is significant potential here for smartphone 'taxi apps' to facilitate discounting, as discussed in the case study. The main issue appears to be whether a move to allowing fare flexibility will be effective if changes to the pre-booked market (including lowering barriers to entry and removing mandatory affiliation by operators with a network) encourage greater competition between existing and new networks (and/or taxi operators).

Case study

The role of technology in increasing fare competition

In various places throughout this report, the inquiry has already noted the potential of new wireless and other technologies to change many aspects of the taxi and hire car industry.

The rapid uptake of portable online devices such as smartphones and tablets – and the applications being developed for these devices – means that consumers can now see available taxis in their area along with service and price information that enables a more informed choice.

The problems of limited consumer information and network concentration are reduced, as online applications allow routes and prices to be agreed upon ahead of time, passengers to select from multiple price offers when requesting a route and the reputation of each driver and passenger to be built up over time through electronic feedback mechanisms.

As discussed in chapter 19, these applications potentially blur the lines between booked and non-booked services. They can easily be called upon to order a taxi as 'ready-to-ride' and the difference between using a smartphone application and standing on a street hailing a taxi or going to a rank becomes somewhat academic.

In the longer term, these applications could allow for bidding by both drivers and passengers for a ride (like an auction). Most applications at this stage do not support this function, but their development and introduction appears imminent, particularly if fares are no longer fixed. Indeed, some applications currently encourage passengers to add a tip in advance to ensure their job is accepted in busy times.

As indicated in the previous chapter, the inquiry considers it important that these new service offerings are not restricted or excluded by regulation.

20.2.2. Alternative regulatory arrangements for taxi fares

Changing the current form of fare regulation does not have to mean removing all regulation of fare-setting behaviour. Some of the options (which are not necessarily mutually exclusive) that could be applied to taxi fares include:

- Fare monitoring
- Fare notification
- Facilitating fare comparisons by consumers
- A regulated maximum fare.

Fare monitoring

The Productivity Commission describes fare or price monitoring as follows:

Price monitoring is a light-handed alternative to price caps or rate-of-return regulation. Under price monitoring, firms generally are required to provide information on prices, costs and profits, but there is no direct regulatory control over prices charged or revenues or profits earned. The impact of monitoring on firms' pricing decisions is more indirect, through moral suasion, providing customers with better information, publicity, and the threat of stricter forms of price regulation being re-introduced.⁴

Fare monitoring requires regulated entities (such as taxi operators) to provide details to the regulator at regular intervals about their prices and their revenue, costs and other performance data. The regulator then examines and reports on the prices charged. As suggested by the Productivity Commission, this is accompanied by the implicit threat of more intrusive regulation – such as maximum fare setting – should the regulator report price rises that cannot be justified objectively.

The significant benefit of fare monitoring is that it requires far less regulatory intervention than explicit fare setting. This reduces the prospects of the regulator creating worse outcomes; for example, from not having sufficient information to match fares to the particular demand characteristics experienced in a particular area.

There are some practical issues with the implementation of a fare monitoring scheme in Victoria. For example, there are many taxi operators, making it difficult for even a well-resourced regulator to monitor these entities. It might only be practical to monitor taxi operators that belong to a network or other kind of overarching organisation that sets fares.

A further issue with fare monitoring is the effectiveness of the implied threat to re-regulate prices. It is difficult to define the criteria that would support re-regulation; for example, will it be justified where the system is generally working well but some taxi operators are found to be over-charging consumers at particular times or in particular places?

⁴ Productivity Commission (2002), *Price Regulation of Airport Services*, Report no. 19, AusInfo, Canberra, see Overview

Fare notification

A fare notification system prevents taxi companies from changing their fares to exploit consumers at particular times (such as when a taxi approaches a long queue of customers). Regulation can take the form of companies notifying or 'posting' their fares to the regulator and to consumers.

As an example, in New Zealand, taxi networks are required to set their fares and notify the Director of Land Transport. These fares must also be posed on the exterior and interior of taxi vehicles, complying with requirements on location, font size and so on.⁵ This kind of regulatory requirement seems complementary to a fare monitoring regime.

Facilitating fare comparisons

Another form of regulation that can assist the development of more fare competition is to increase consumers' ability to compare different offerings. Two particular policies may improve consumers' ability to compare prices:

- Require taxi operators or networks to develop fares of a specific form
- Require taxi operators or networks to publicise those fares in a specific way (such as on a website and on the vehicle).

The first kind of regulation addresses the problem that firms may have an incentive to try to confuse consumers about the prices they are offering. This is a genuine concern with taxi fares, which are currently incurred based on distance, time and starting the taxi trip (along with other charges for pre-booked taxis, late night rates, toll fees and so on). By making fares difficult to compare, firms may hope to soften competition between them.

The second kind of regulation does not only specifically require a mandatory fare structure, it also requires companies present them to consumers in a comparable way. This may involve converting all charges to a per kilometre basis and publishing expected fares for different length trips.

Maximum fares

A regulated maximum fare or similar provides flexibility to negotiate a lower price 'off the meter' but, at the same time, provides a limit to the fare that can be charged. Many jurisdictions that regulate taxi fares prescribe a maximum fare that can be charged. This allows some flexibility for negotiation, while providing a degree of certainty for both consumers and suppliers about prices. The current Victorian taxi licence conditions require taxi drivers to charge the prescribed fare, except in some very specific circumstances such as for regular bookings.

It seems incongruous to enforce a regime where suppliers are prohibited from charging a lower price than the regulated price. However, that is what the current Victorian licence conditions generally imply. Maximum fares are set in all other Australian jurisdictions.

There are a number of ways in which discounts can be offered. A fixed, agreed fare at the start of the journey is one method. Agreeing a set discount off the metered fare at the end of the journey is another. The inquiry suggests that these other methods should not be prohibited and, to ensure that any discounts offered are genuine, the meter should always be run as a safeguard for consumers.

Inquiry findings

- ➔ Conditions in metropolitan Melbourne are not suitable to remove all fare controls at this time. Removing fare controls altogether without seriously addressing barriers to competition between taxis will likely lead to price rises and abuse of market power.
- ➔ The new Taxi Services Commission should develop a package of reforms to facilitate the development of consumer choice and competition in all market segments. This may require significant attention to be paid to consumer and driver behaviour, and to balancing the efficiency of a single first-in, first-out queue (such as at the airport) with exercise of choice by consumers in particular cases. Some residual regulation of fares may be required in these areas (such as fixed fares from the airport).
- ➔ One change that should occur immediately is to make the regulated fare a maximum fare. This means that the fares are maximum fares only – taxis can charge 'up to' the declared fare.
- ➔ Once competition in a market (or a market segment) is better established, consideration should be given to reducing the regulatory interventions, including implementing a price notification system and compulsory publication of prices in a format friendly to consumers. It will also be important to allow other third party users of information (such as application developers) to access these data in a suitable format.

⁵ These rules are available at www.nzta.govt.nz/resources/rules/operator-licensing-2007.html#49, accessed 25 March 2012

20.2.3. Fare controls in country areas

The inquiry has heard that issues with fares in country areas can be quite different to metropolitan Melbourne and other urban areas. In country areas, assignments are uncommon and the licence owner is commonly the operator. Operators are much more familiar with their customers and rely upon repeat business from these customers. High levels of private vehicle use also limit the viability of taxi service delivery, even though there are few other public transport-like options for consumers. Other costs are commonly higher – particularly LPG – or are higher per unit of output (trips, kilometres) because taxis tend to be less utilised. Issues of ‘dead running’ can be more significant, because trips out of town may be marginally profitable or unprofitable for the operator. Finally, country markets are very different from each other – each town has its own set of peculiarities. Indeed, the inquiry has heard from operators in some country markets that are strongly in favour of a fare rise, while others believe that such a fare rise will be counter-productive as it will result in a potentially significant loss of patronage.

Accordingly, it seems evident that fare regulation is particularly costly in country areas – costly for the regulator to get prices right (because of limited information and resources), and costly if fares end up being set that do not suit the local population. These markets also have limited rank and hail work: jobs tend to be almost exclusively pre-booked.

The inquiry considers that there is a strong case for removing even maximum fare regulation in country-zoned areas. This will give local operators the flexibility to better match fares to local conditions and remove costs associated with regulated fares. One problem with this approach is that in many areas there is restricted entry and only one network. However, in conjunction with a move to open entry and greater potential network competition, de-regulating fares should allow regional operators’ concerns over viability to be addressed while injecting more competition into these markets and increasing taxi availability.

Operationally, the inquiry recognises this will likely cause some transitional issues. The inquiry would support moves such as requiring operators to notify the Taxi Services Commission of fares, to make these fares well-known to consumers and to run a meter (with off meter discounting allowed). It may also cause some issues for the management of MPTP subsidies, as these are currently set as a proportion of the regulated fare: this may need to change in order to contain costs for this program. Nonetheless, the inquiry believes this is an important move that will reduce regulatory burdens and increase transport availability for those most affected by the lack of public transport options (see box on the following page for experiences with a less regulatory fare-setting approach in South Australian country areas).

Inquiry finding

- ➔ In country taxi zones, the inquiry supports a move towards allowing taxi operators or networks to notify the regulator of their maximum fares. This should only occur in conjunction with other reforms that will remove barriers to new entry in these zones.

What happens in other places?

New Zealand

In New Zealand fares are not set by regulation. However, networks must notify the New Zealand Land Transport Authority prior to implementing new fares or fare schedules. Tariffs must be displayed on taxi vehicles according to set rules about size and other requirements. This does not necessarily mean that fare information is readily available as there is no requirement to publish fares on a website, for example. In addition, the structure and level of tariffs for the same trip varies by company. This can make fare comparison problematic.

Norway

Norway is unique among countries studied by the inquiry in that it has entry regulation but free price setting. In Norway, fare regulation occurs only in areas where there is no competition among dispatching service companies. In effect, fare regulation is only in place for areas outside the main cities. The fare setting body, the National Competition Authority (NCA), benchmarks maximum fare adjustments based on the weighted average prices of defined 'average trips' in the deregulated (competitive) areas. However, the authority has identified some issues with this adjustment process.

The NCA has identified some 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. Additionally, in periods with large fluctuations in costs and fares in deregulated markets the NCA might not be able to adjust the maximum fares fast enough, leaving the maximum fares too high or too low for a certain period of time. Finally, the current fare structure makes it challenging to define a representative formula for an average trip.⁶

South Australia

In regional areas in South Australia, taxis have historically been regulated by local authorities. Over the last few years, the South Australian Government has moved to incorporate taxis and hire cars within existing legislation, but has maintained open entry and less restrictive fare controls. Country taxi operators (all those outside Adelaide) are permitted to set their own fare rates within a 20 per cent range of the Adelaide Metropolitan tariff. Country operators are required to have their fare approved under a country taxi service plan (under section 9(1)(s) of the *Passenger Transport Regulations 2009*). Tariffs higher than 20 per cent may be approved by the Minister on a case by case basis. Operators are able to vary their fares through the day but must display the tariff rates to customers. Most country taxi operators have tariff rates higher than the schedule of fares for metropolitan Adelaide.

⁶ Wenche, Egeland and Tveito (2009), 'Regulation and Competition in the Norwegian Taxi Service Industry', *Competition Law International*, June, p. 39

20.3. Improving the regulation of taxi fare levels and incorporating appropriate changes to fares over time

The inquiry has found that there is a case for the setting of maximum fares in Metropolitan and urban areas. This then raises issues about the current setting of fares and whether it could be improved through changes to the industry or regulatory structure.

Most industry submissions to the inquiry address the need for a fare rise and criticised perceived weaknesses in the current fare-setting methodology.

The following sections discuss the current process of setting fare levels and how these fares should be changed over time, approaches adopted in other jurisdictions and industry views on fare regulation and levels.

20.3.1. The Essential Service Commission's reviews of taxi fares

As discussed in chapter 10, fare regulation is complex. This heightens the need for fare setting processes to be conducted in an open and transparent way by a regulator with the appropriate skills and experience.

As part of the 2002 reforms to the taxi industry, the ESC gained a role in price setting. Since then, the Minister has been required to consult with the ESC prior to announcing new taxi tariffs. The ESC delivered its first taxi fare review in 2005 and conducted another in 2007/08.

The inquiry's view is that the industry and consumers have benefited from the involvement of the ESC in fare setting. The ESC is independent from government and has the necessary economic skills and broader regulatory knowledge – having regulatory powers in other sectors – to critically analyse fares. While the ESC does not have specific taxi industry expertise, it has highlighted a number of key structural problems with the industry that have reduced the effectiveness of fare regulation and contributed to service quality problems.

ESC 2005 review

The ESC's first review of taxi fares contained detailed analysis of the appropriate framework for setting taxi fares. The ESC's key conclusions were:

- An approach to making future adjustments to taxi fares based on inflating prices by the consumer price index less a productivity adjustment (CPI-X) approach was the most appropriate model. This was due to its superior incentive properties (it offered strong incentives for operators to be efficient) and beneficial outcomes for consumers (prices would fall).
- A 'cost of service' approach was rejected as it offered inferior incentives.
- An industry specific cost index (as suggested by the industry) did not allow for the sharing of benefits of productivity improvements nor did it create incentives for efficiency improvements.
- The recommended approach was a 'legacy pricing' model in that the current level of fares was taken as given, avoiding the need for a detailed analysis of efficient industry cost structures.
- There was insufficient information available to support a restructuring of prices, particularly in relation to the elasticity of demand of certain users.
- Fares should be maximums only, with flexibility provided for negotiated fares below this maximum.

The ESC recommended an immediate eight per cent fare rise across each fare component, and annual (predictable) rises based on CPI-1 for the next two years. Fares were adjusted in September 2005 by eight per cent and again in September 2006 (three per cent) and September 2007 (one per cent).

The ESC also made a number of important observations about the role of fare setting in 'fixing' structural industry problems in this review:

A number of submissions to this review have argued for significant fare increases as a means of addressing these poor returns. However, the Commission is of the view that the explanation for poor operator and driver returns cannot be found in inadequate industry revenue. Indeed, high and rising real licence values and assignment fees are strong indicators that the level of total revenue earned by the industry has been and continues to be more than adequate. Rather, the Commission considers that there are structural aspects of the taxi industry that influence remuneration arrangements and result in what many parties would view as an inequitable distribution of the overall revenue received from taxi fares...

This implies that these problems should be tackled directly, rather than through the costly and blunt instrument of a significant fare increase. Even a large fare increase is considered to be unlikely to substantially improve the remuneration of drivers and operators. On the other hand, it would impose obvious and substantial costs on taxi users, especially those who are particularly dependent on taxi services.⁷

ESC 2008 review

The ESC's further major review of fares through 2007/08 covered many of the same issues as its 2005 review. The ESC's key conclusions at this time were:

- It was appropriate to use survey information to assess the level of taxi operator costs and revenues, although some adjustments needed to be made.
- The use of an index approach to fare changes was likely to be appropriate, although it moved from a CPI-X framework to one that was more reflective of industry costs, which it called a 'CIPI-X' formula, where CIPI is a composite input price index.
- The calculation of the required second 2008 fare adjustment involved adjusting fares for movements in the input price indices. However, it was also designed to ensure that the cost base from which taxi fares are escalated was adequate to facilitate the financial viability of the industry.
- It was inappropriate to use the change in assignment values in either the cost base or the change index, as this would have a circular effect if they were entered as actual values. Accordingly, the ESC adjusted these to an average of the 2001-2004 assignment level and allocated half of the reduction in assignment fees to driver payments, but with no certainty that this would flow to drivers.
- The ESC applied the index to benchmark costs and contemplated that this formula would be used to recalculate fares on an on-going basis, for the next three to five years.
- It was again limited by a lack of information to analyse appropriate components of fares and fare structure issues. Nonetheless, it was concerned about the impact of higher flagfalls on consumer demand and consequently did not raise this as part of the broader fare rise.

The ESC made other recommendations related to booking fees, multi-user rates, country tariffs (to better align these with metropolitan rates) and various surcharges.

Importantly, the ESC also took the opportunity under its terms of reference to comment on a number of other industry issues which affected fares. In particular, it looked at ways to improve driver remuneration and improve performance monitoring of networks and operators.

The Government implemented the ESC's LPG price recommendation in April 2008 and implemented its further price rise recommendation in December 2008. Some other aspects of the recommendations were also implemented, such as changes to Tariff 3 (high occupancy tariff).

20.3.2. Industry views

The Victorian Taxi Association's (VTA) submission to the inquiry's *Setting the Scene* discussion paper contains areas of investigation for a 'new way of setting fares':

The VTA is of the view that a new way of setting taxi fares in Victoria needs to be developed. This includes a new model for setting fares that is applied in a consistent and fair manner, not just whenever it is politically feasible.

As of 2011 CPI has increased by 35% since December 2000, while taxi fares have only increased by 22.2% this represents a gap of 12.4%.

The ESC's insistence in including a negative value for productivity in the model (represented by -X) distorts the ability to cover real costs and must be removed going forward. It is key reason for the 12.4% gap.

The ESC has never explained how it reached the figure for -X. An outcome of the 2005 review was that -X was arbitrarily set at 1%. This effectively ruled out a fare increase for the taxi industry for a number of years despite the fact that costs across the economy were rising. As a part of the 2008 review -X was reduced to 0.1%.⁸

A further VTA submission adds:

A new fare setting model and process is required which considers real operating (including geographic area variations), and compliance costs, and movements in these costs, and provide for fair and reasonable profits at each point in the service supply chain...fares should be structured in a way that addresses perceived customer issues. For example, a high flagfall could discourage short fare refusal and trip length dependent distance rates could encourage taxi use for long trips.⁹

7 ESC (2005), Op. Cit., p. 2

8 VTA (2011), Submission to the Taxi Industry Inquiry, SS60, pp. 10-11

9 VTA (2011), Submission to the Taxi Industry Inquiry SS60C, p. 4

20.3.3. Inquiry observations on the ESC fare reviews

The inquiry makes six observations in examining the ESC fare reviews of 2005 and 2008.

1. It has been to the detriment of the industry and consumers that recommendations of the ESC to improve the information flow from the industry to the ESC and Victorian Taxi Directorate (VTD) were not taken up. This information is critical for effective regulation of fares.
2. An indexing approach to fare changes (regardless of the specific kind of indexing approach) has two flaws when specifically applied to the current taxi industry:
 - The index used for drivers (currently a wage index) is not linked to actual changes in driver payments. The costs for drivers are purely notional. As discussed in chapter 13, driver earnings are determined by demand and supply for drivers, not just by the revenue available. In economic terms, it might be argued that this is the kind of outcome that is promoted by indexing – indexing divorces actual cost changes from fares and allows for cost reductions to occur that benefit operators and ultimately consumers. In this framework, driver costs not rising by as much as forecast is a kind of efficiency gain. However, seen more broadly within the context of a restrictive licensing scheme and the significant observed problems with driver quality, this is not desirable.
 - The second flaw is that there is no appropriate way to treat assignments. Assignments are the residual profit that may be earned from operating a taxi; this profit is passed from operators to licence holders. Assignments are not a real resource cost and treating them as a cost results in circularity. If allowed, higher assignments lead to higher fares and higher assignments. The ESC was clearly aware of this issue and broke this circularity by lowering the assignment base and only inflating the assignment 'cost' by the change in the CPI. However, its approach still leads to increases in assignments that are unjustified by any change in 'cost'.¹⁰
3. Both of these flaws are also apparent with the indexing approach used by Independent Pricing and Regulatory Tribunal (IPART) in NSW, which has recently been the subject of extensive comment at a fares roundtable organised by IPART.¹¹ In NSW, despite taxi fares being more than 20 per cent higher than Melbourne's, driver remuneration appears to be lower (and almost certainly no better) than in Melbourne.
3. The restrictive licensing approach appears to be undermining the effectiveness of fare regulation and creating further pressure for fare rises. The most obvious manifestation of this is that falls in costs do not accrue to operators, but tend to flow towards licence holders. This is likely to be what has happened with LPG prices, which fell substantially after fares were re-set in 2008. This fall in price would have substantially increased operators' profits. But these profits cannot last in a market where there is substantial competition at the assignment level: the lower costs are bid away by operators competing for assignments. Licence owners are the ultimate beneficiaries. The real problem emerges when costs later revert to a more normal level: when the LPG price rises, pressure comes for a fare rise even though operators should actually be seeking a reduction in assignment prices from licence holders.
4. It would be beneficial for the ESC to take greater account of what is happening to the demand for taxi services. Taxis are not a monopolistic industry; rather, the cost characteristics of the industry look much more like a highly competitive market. There are not large economies of scale and very low elasticities of demand for service. These characteristics undermine, to some degree, the usual approach in regulated industries of assuming that it is reasonable to raise prices even if costs have risen due to a fall in demand. In taxi markets, falls in demand without offsetting price falls will cause industry over-capacity and higher costs for operators. This is discussed further in section 21.3.4.

¹⁰ A better approach would be to set a weight for assignments but allow the 'change in index' value to be zero. This would overcome the circularity problem but not put any upward pressure on fares. Even this approach is not without flaws, as it could have the effect of supporting assignment values if other costs were to fall

¹¹ Available at: www.ipart.nsw.gov.au/Home/Industries/Transport/Reviews/Taxi/Review_of_fares_for_Taxis_from_July_2012/29_Feb_2012_-_Transcript_-_Roundtable/Transcript_-_Roundtable_-_2012_Taxi_Fare_Review_-_IPART_Offices_-_29_February_2012, accessed 2 April 2012

5. The apparently *ad hoc* nature of fare setting is undesirable and clearly not consistent with original intentions. In 2008, the ESC recommended that price paths be developed, which would provide for a regular and predictable series of fare changes to reflect changing costs. These price paths have not been followed, for reasons that are unclear. Further, it is not clear to the inquiry what benefits there might be from requiring the Minister to endorse the ESC's recommendations on fare setting. The inquiry believes a strong case can be made for removing the Government (Minister) entirely from fare setting, with the ESC to set fares independently on a more predictable basis with some provisions for re-opening the fare control in certain conditions (such as large cost changes, as discussed below). This would be more consistent with approaches taken in other regulated industries, such as electricity, gas and telecommunications, and in the setting of regulated taxi fares in other jurisdictions.

Providing for the ESC to regulate fares would be straightforward. The *Essential Services Commission Act 2001* (ESC Act) provides for the Governor in Council to, by Order, declare an industry to be a regulated industry (s. 4). Constraints around the setting of regulated fares could be set in this Order, as provided for by s. 4(2) of the ESC Act. The Order, for example, might include a provision allowing for fares only to be determined in zones where competition is not sufficient to keep fares close to the cost of supply. It could also specify certain factors to be considered in the price determination, including the timing and frequency of reviews, and other processes around this activity such as under what circumstances a fare control could be re-opened. The Minister would not need to be involved in the price setting process.

6. The inquiry is not convinced by the industry's arguments with respect to the setting of 'X' or the ESC's choice of indexing approach. The ESC's settings clearly reflect a balance of consumer and producer interests within the clear constraints imposed by poor quality industry data. The judgements made by the ESC are not unreasonable in this context, even if it can be argued that other approaches may also be reasonable.

Inquiry finding

➔ Regulation of fares by the ESC has been hindered by deficiencies in industry data and by a flawed industry structure. Both of these issues need to be addressed as a matter of priority if fare regulation is to deliver outcomes that are fair and efficient for both industry and consumers.

20.3.4. Setting price paths over time

As the ESC identified in 2005, there are a number of options for regulating fares or setting 'price paths' over time. The three options the ESC considered in detail are:

- Using actual costs (a cost of service approach)
- Using an industry-based cost index, where prices are adjusted using an index of input costs (such as happens in NSW)
- Using an economy-wide cost index, which encourages some innovation and productivity improvements by divorcing changes in actual costs from fare rises (such as a CPI-X approach).

These options were again considered in 2008 by the ESC and the decision made to move towards an industry-based cost index through the adoption of the CIPI-X method. This is a composite price index that includes indices that are likely to better reflect actual cost changes within the taxi industry.

As the ESC has noted, each of these models has drawbacks and advantages in setting price paths:

The selection of a preferred approach is in part a trade-off between simplicity, the power of incentives for efficiency and cost reflectivity.¹²

Approaches that completely divorce fare changes from cost changes (such as increasing them by CPI) are simple to implement and offer strong incentives for efficiency improvements. However, this may result in a large gap between costs and prices (if they move at different rates) and can result in financial stress or large profits.

On the other hand, approaches that closely link costs with prices are much more difficult to implement, because costs are difficult to measure and the industry often has little motivation to reveal accurate costs. They also offer fewer incentives for efficiency, because prices are lowered when cost savings are found – reducing the incentive to find such efficiencies. However, these approaches reduce problems with cost over- or under-recovery.

¹² ESC (2008b), Op. Cit., p.9

Problems with industry-based cost indexing

The ESC's preferred indexing approach lies in the middle ground between the options of de-linking prices from costs or making them reflect costs precisely.

As indicated above, the inquiry does not consider that the indexing approach is working well. The inquiry recognises that some of its shortcomings are not related to technical problems with indexing, but instead are due to problems with identifying appropriate costs, gathering accurate information on these costs and weaknesses in the industry's structure. It is not obvious that other approaches would better manage some of these issues.

There are two further elements of concern with the indexing approach:

- The first problem is that it purely takes into account the costs of supplying taxi services, with no account taken of the changing demand for taxi services. For example, if there is a fall in demand for services caused by some factor, such as a significant recession, prices should fall – otherwise the result will be industry over-capacity, reflected in very short waiting times and long queues of taxis. In an indexing approach, fares are set solely on the basis of cost movement. This means that falls in demand (and, equally, increases in demand, which should result in fare increases) are not being appropriately reflected in fares.
- The second specific problem with indexing is that it takes no account of input substitution; that is, costs do not necessarily rise in the same way as input prices because operators substitute or change behaviour to limit cost increases. A clear example relates to LPG prices. Recent LPG increases are likely to accelerate moves towards more fuel efficient vehicles, with the inquiry's understanding being that 30 to 40 per cent reductions in LPG costs are possible with newer Ford Falcon LPG models (Ford Falcons constitute the majority of the existing fleet) and that there are other fuel-efficient vehicles available.

The inquiry also observes that one disadvantage associated with using actual costs – efficiency incentives – is not as problematic as it might first appear. This is because, in practice, prices are regulated based on the costs of a 'benchmark' taxi operator – for example, based on average performance across all operators – with no single operator's costs relied upon. This means that individual operators will still have strong incentives to beat this benchmark by lowering costs or increasing output above the benchmark. This will result in higher returns to the operator. Therefore, because there is an implicit 'yardstick' against which all operators can be measured, an actual cost model need not have the efficiency disadvantages associated with 'rate of return' style regulation.

However, the inquiry accepts that a major issue with an approach that regularly assesses actual costs is collecting and verifying costs and revenues (revenues are needed to determine quantities of trips and paid kilometres, which are then used to set fares). It would be onerous to do this frequently.

The inquiry's view is that there is a clear need to establish a baseline of industry revenues and reasonably efficient costs. By 'reasonably efficient', the inquiry means costs that are actually achievable by many operators. It is also important that an efficient level of utilisation¹³ is factored in to this cost. If, for example, vehicle utilisation was low due to low demand, it would not be appropriate to factor in the low vehicle utilisation as higher operator costs (utilisation affects average costs because some costs are fixed). This would be inconsistent with how fare setting would operate in a reasonably competitive industry structure like the taxi industry, and would result in fares that are too high and under-utilisation of vehicles.

Starting with a new baseline of efficient costs will have some distinct benefits in the context of the package of reforms the inquiry is proposing. In particular, following these reforms:

- Assignment values will be effectively capped through new licence issues and quarantined from changes in real resource costs, so these values will no longer drive fare increases.
- Genuine driver costs can be included in such an estimate and indexed appropriately without facilitating 'leakage' to higher licence values.¹⁴
- New sources of data collection will allow the ESC to take account of actual operator revenues and vehicle utilisation rather than relying on surveys with relatively poor response rates (and with possible self-selection bias).¹⁵

There are some difficult issues of detail to resolve, which the ESC has already had to face in previous fare reviews. For example, deciding which type of operator should provide the model for establishing the baseline costs. The business model and costs of a single operator are likely to vary considerably from the business model and costs of a fleet operator. In addition, there are complications from the inclusion of country taxis, which may vary in costs in different country markets, and wheelchair accessible taxis (WATs). How should regulation adjust for these differences?

¹³ Measured as either proportion of paid kilometres to total kilometres, or time occupied to total time

¹⁴ Such leakage might occur if there is an increase in demand from operator/drivers. These operators might be willing to work for lower implicit wages and might therefore be prepared to bid more for a licence

¹⁵ Survey respondents could be expected to recognise that it is in their interests to under report revenues, because this will result in higher fares

The approach used by the ESC has been to adopt the costs of a 'median' taxi across Victoria, but there is no reason to think this is the only acceptable approach. In principle, the most efficient taxi could be used, or one from the upper quartile (25 per cent) when ranked in efficiency.

Separate costings (and fares) could be produced for taxis in country areas or for WATs. The inquiry's view is that these issues are best left for the ESC to consider.

The inquiry concludes that the best way forward is to reset the 'fare box' using an estimate of current costs, adjusted for changes in costs likely to flow from the inquiry's findings, and then to use an indexing approach with a regular cost re-set (for example, every three years). Importantly, this should also take account of the demand for taxi services by considering an efficient level of vehicle utilisation and consumer waiting times. If vehicle utilisation is considered to be too low and waiting times reasonably short, then it is likely that costs are too high and that there may be some benefit from holding or even lowering fares.

This approach would largely be consistent with the approach advocated by the ESC in 2008, but enhanced with better data.¹⁶

The role of demand

As noted above, demand has an important role in the regulation of fares because it affects operator costs. Demand should also take into consideration the effect of fare changes on revenue. This is because while the regulator sets fares, the objective of the regulation is typically to set revenues equal to efficient average costs.

The effect of fare changes on revenue depends on the effect of fare changes on the demand for taxi services: revenue is simply the average fare times the trips taken.

In the past, a common assumption has been that revenues can be increased through a proportionate increase in fares. For example, the ESC stated in its 2007/08 fare review:

The resulting required increase in average revenue per cab between 2007 and 2008 is calculated to be 10.6%. This needs to be deflated by the actual increase in fares since September 2007, which is 4.2%. The adjustment for security screens of 0.1% can be netted off the productivity adjustment for the period between 2007 and 2008. The net result is a required fare increase of 6.1%.¹⁷

This approach by the ESC appears to imply that there is no change in demand as fares change; that is, it overlooks the effect of the sensitivity of the number of trips and passenger kilometres to price. This may have been due to data issues, as the ESC suggested the evidence on the elasticity of demand to price changes was scant and not Victorian-specific.

It is also consistent with the approach adopted in other regulated industries, such as electricity, where the elasticity of demand is commonly very low (that is, consumers do not react to electricity price increases by significantly reducing their consumption, at least in the short term).

Work commissioned by this inquiry suggests that in regulating taxi services, it cannot be assumed that demand changes can be ignored. Study results from The Hensher Group's research indicate that consumers are likely to be very responsive to price changes from current levels if quality is fixed: if prices increase by 5 per cent customers will choose to reduce their trips by 5.5 per cent. This suggests that revenue will fall by 0.8 per cent, limiting the effectiveness of a fare rise in producing more revenue.¹⁸ It also suggests that an additional focus on increasing service quality or cutting costs to increase profitability will have a greater influence on revenue than raising fares.

From now on, further regulation of fares should take into account this new information on demand – and possibly improve on it in the years ahead.

Inquiry findings

- ➔ An accurate cost base needs to be re-determined and structural changes made to the industry. Once this occurs, the indexing approach previously adopted by the ESC will deliver better outcomes.
- ➔ The inquiry's estimates of demand elasticity suggest that fare rises will be difficult to support unless quality improvements occur that mitigate the loss of demand that will otherwise occur.

¹⁶ The ESC stated in 2008 that it intended to retain the survey based approach, carrying out a fresh survey every three to five years, at the start of each pricing period. See ESC (2008b), Op. Cit., p.195

¹⁷ ESC (2008b), Op. Cit., p.9

¹⁸ That is, the change in revenue is one plus the percentage change in price times one plus the percentage change in quantity: $(1+5\%)*(1-5.5\%) = -0.8\%$

What happens in other places?

NSW, Queensland and Western Australia

Like Victoria, NSW, Queensland and Western Australia apply a cost index to generate fare increases. However, regulators in these states (with the exception of IPART in NSW) do not allow for productivity improvements through the use of an 'X' factor. Each state has subtle differences in the makeup of its index, but in large part the processes – and likely outcomes – are similar. Jurisdictions also undertake reviews of the weightings in the index and check for revenue adequacy. For example, IPART does this every five years.

IPART has noted difficulties with cost and revenue measurement due to a lack of reliable data. Like the ESC, it relies on sample survey data. IPART has stated that:

Ideally, we would like to use the information collected by the [commissioned]...cost survey to determine whether the level of fares requires re-setting. This would involve setting fares so that on average a taxi that is run efficiently recovers its costs – no more or no less.¹⁹

However, these data are not available and this is one of the main reasons given by IPART for using a cost index approach.

Australian jurisdictions seem to have a number of things in common in fare regulation: they all suffer the same limitations of data availability and reliability, and issues with treatment of driver costs and assignment fees.

London

The regulator for taxi fares in London, Transport for London, also uses a cost index approach. According to the latest consultation paper from Transport for London, 60 per cent of the cost index is measured by average national earnings (which proxies for changes in labour payments). After labour, fuel (11.1 per cent) and vehicle costs (8.4 per cent), the costs of 'The Knowledge' test is the next most important factor, weighing in at 5.4 per cent of the index. This implies that drivers' earnings are a far greater proportion of the fare box in London than in Victoria. The owner-driver structure and the non-transferability of licences mean that there is no assignment fee issue and labour is a higher proportion of the costs. This means that the index measurement issues are different as well.

20.3.5. The current cost base and possible changes in the base

While the inquiry has not undertaken a 'fare review' in the same way as previously carried out by the ESC, it has undertaken some analysis of data provided to it on operator costs. In part, the inquiry has conducted this analysis to develop a view of the adequacy of the current fare box (as fares have not changed since 2008) and to better understand how different reforms proposed by the inquiry will affect taxi operators, drivers and licence owners.

Information supplied to the inquiry about costs

Despite requests to operators, the inquiry received very little industry data from metropolitan operators about the actual costs of supplying taxi services. This could be considered surprising given that many industry participants have also urged the inquiry to recommend an immediate fare rise.

Operators from urban and country zones have provided the inquiry with more data, although much of this served mainly to reveal the wide range of different conditions facing taxi operators across Victoria.

The starting point for the inquiry was the work carried out by the ESC in 2005 and 2008. In both of its fare reviews, the ESC engaged a consultant to survey operators to establish the costs of taxi operation. The results of these surveys and the ESC's estimates of costs in 2008 are summarised in Table 20.1.

¹⁹ IPART (2012), Taxi Fare Review Roundtable, Discussion paper 3, Level of fare revenue compared with costs, IPART, Sydney, p. 1

Table 20.1 ESC cost estimates, 2008

Cost item	Cost of a median Victorian taxi (2007)	(Forecast) cost of a median Victorian taxi (2008)
Driver payments	71,411	76,462
Lease/vehicle funding payments	6,653	7,137
Assignment fee/plate lease costs	23,418	20,779
LPG fuel costs	12,314	16,114
Network fees	6,739	7,038
Repairs, maintenance, cleaning and tyre costs	8,546	12,944
Insurance and registration costs	4,274	5,872
Office & other	3,361	3,875
Total cost per median taxi (pure survey)	136,715	150,221
Estimated total revenue (pure survey)	142,822	157,971
Margin	4%	5%

Two items from this table are particularly striking: the relatively low value included for assignments and the relatively high value included for LPG.

The inquiry's understanding was that the relatively low value for assignments was a deliberate attempt to mitigate the effect of these towards increasing fares. Some of these 'costs' were subsequently re-introduced as notional driver payments.²⁰

As discussed below, the LPG cost included is extremely high for a vehicle that was travelling the median number of kilometres as estimated in the ESC's survey work (just over 116,000 kilometres per annum). It implies a price per litre of over 77 cents²¹ – well above the price even at that time and a price that has only recently been exceeded in Victoria.

It is important to recognise that these costs are based on key survey results about taxi usage:

- The median Victorian taxi travelled 116,048 kilometres per year.
- 50 per cent of the kilometres driven were paid kilometres.
- 57,967 kilometres were paid, implying revenue per paid kilometre of \$2.46 in 2007 and \$2.73 in 2008.²²

Different assumptions for these variables will affect both the reported costs and revenues. As many of the operators' costs are fixed with respect to the number of paid kilometres (only driver costs increase), costs and vehicle profits are particularly sensitive to the percentage of paid kilometres. As an example, using the 2008 figures, an increase in paid kilometres from 50 per cent to 55 per cent would have resulted in an increase in revenue to \$173,938, and a margin of 8.2% rather than 5%.²³

The inquiry makes some observations about the usage and level of the costs in 2011 and 2012 on the following pages.

²⁰ This is described in the ESC's 2008 review at p.102

²¹ Assuming the vehicle consumes 18 litres per 100 kilometres

²² This calculation assumes that the 2008 fare rise had no effect on demand – that is, that revenue increased by the same proportion as fares

²³ In this calculation, driver payments are adjusted to be 50 per cent of revenue and other costs are assumed to be unchanged

Revenue and vehicle kilometres

As indicated in chapter 5, the inquiry has sourced data from Melbourne NSPs and has been able to compile a profile of the 'average' taxi in this area, set out in Table 20.2.

Table 20.2 Revenue and vehicle kilometre data, Melbourne

Total passenger kms	255,436,225
Total revenue	\$621,102,000
Average Melbourne taxis on road over 2011 [#]	4,232
Trips	26,345,700
Passenger kms per taxi	60,400
Revenue per taxi	\$146,700
Revenue per paid km	\$2.43

Source: Inquiry analysis of Melbourne NSPs data

Note: [#] Calculated using a monthly average across the year

These data indicate revenues of just below \$150,000 per year, on average. Working on the basis of paid kilometres over total kilometres of 50 per cent, this indicates that the average vehicle drives around 120,000 kilometres each year.

These figures may also be adjusted to reflect the proportion of peak-service vehicles (588 out of the 4,232). If we assume that these vehicles take about 75 per cent of the revenue of a conventional taxi (working 66 per cent of the hours, but the more profitable hours), then annual revenue per vehicle for a conventional taxi is around \$152,000 with passenger kilometres of 62,500 and total kilometres of 125,000.

Driver payments

A reasonable estimate of driver payments can be determined by assuming that the most common bailment arrangement (a 50:50 split of the fare box) can be applied to total revenues per taxi. On this basis, the total amount of driver payments for a conventional taxi is around \$76,000 per annum (inclusive of GST).

Detailed data from a metropolitan Melbourne operator (cited in chapter 5) indicates that hourly driver earnings are in the vicinity of \$13 per hour averaged across the week. If total revenue is divided by this amount per hour, this suggests that the average taxi is on the road for about 5,700 hours per year – or 115 hours per week. This implies shift coverage of 10 to 11 shifts per week, which is consistent with other information reported to the inquiry.

LPG

LPG costs constitute around 10 per cent of total costs and around 20 per cent of operator costs excluding driver payments.

Total LPG costs are determined by the total vehicle kilometres driven, the fuel efficiency of the vehicle – commonly measured in litres of LPG per 100 kilometres – and the pump price of the fuel. As noted above, very recently there has been a spike in LPG prices that has seen the Melbourne retail price move well above 70 cents per litre and the price in country areas even higher.

LPG prices largely reflect international trends. The Australian Competition and Consumer Commission (ACCC) notes that the international benchmark price of automotive LPG represents around 69 per cent (or around 40 cents per litre in 2008/09) of the average retail price. For automotive LPG, the international benchmark is the Saudi Contract Price for propane and butane.²⁴ It might be thought that this means the cost of LPG is out of the control of the taxi industry. However, this is not entirely true: the pump price cannot be controlled, but the use of LPG can be modified in the medium- to long-term through the use of different vehicles or different fuel sources (such as hybrid ULP/electric or diesel). This emphasises the need for a regular review of efficient taxi costs.

The tax treatment of LPG has also been subject to recent changes. An excise of 12.5cpl is being gradually introduced over the next three years, with the first 2.5cpl of this added as of 1 December 2011. This will add around 10 to 15 per cent to LPG prices. However, this is only a relatively small change in the context of regular movements in pump prices of 20cpl or more within a year.

Vehicle costs

The inquiry has not heard of significant changes in vehicle costs over the past few years. The inquiry does note that if LPG costs remain high, there may well be increasing substitution towards more fuel efficient vehicles by taxi operators.²⁵

Network affiliation fees

As discussed in chapter 11, network affiliation fees in Melbourne are currently approximately \$7,000 per annum, with the two largest providers having comparable charges. In outer suburban and regional areas, affiliation fees are much higher – as much as \$11,000 per year. The inquiry understands that these charges have risen substantially (by more than CPI) over the last few years.²⁶

24 ACCC, Fuel facts What influences the price of automotive LPG?, accessed 29 March 2012 at www.accc.gov.au

25 See chapter 18 for discussion on industry take-up of more fuel efficient vehicles.

26 See chapter 11 for discussion on network affiliation, fees and services

Insurance

Rises in insurance costs are a major concern for operators responding to the inquiry, with many reporting significant increases in the costs of insurance over the last two years.

According to the VTA, premiums for comprehensive vehicle insurance for taxis have doubled over the last five years. The VTA states that, depending upon claim history and vehicle age, premiums are in the order of between \$2,700 and \$4,000 per year for a conventional taxi and between \$5,000 and \$12,000 per year for a WAT.²⁷ OzCabbie has reported that comprehensive insurance for a 2007 Ford Falcon averages \$2,700 in Melbourne.²⁸

A number of taxi operators have provided the inquiry with information on current and historic insurance costs, ranging from small operators with one or two taxis to large fleet operators. This information reveals that it is difficult to derive a single 'average' dollar cost of insurance: rather, it tends to vary with many operator-specific factors, such as the kind of vehicle, rating, claims history, dollar value insured and the level of excess payable. Importantly, it appears that many operators are self-insuring for their own vehicles and only taking out third party property insurance.

The inquiry also found that:

- Comprehensive insurance for conventional taxis is likely to cost up to \$4,000 with lower rates possible with a higher excess or lower insured vehicle value.
- WATs are more costly to insure, given the higher vehicle value. Costs of over \$5,000 per year have been reported to the inquiry, but these costs are reduced for lower insured vehicle values. One operator provided data that indicates the insurance premium was calculated as 12 per cent of the vehicle's insured value (that is, \$1,900 per annum for an insured vehicle value of \$16,000, with a \$5,052 premium for a vehicle value of \$42,000).

Although the inquiry did not receive any information on the costs of insuring new vehicles, the information supplied suggests that even the upper end of the VTA's range is plausible – based on insuring a new WAT vehicle for \$80,000, an insurance premium of over \$10,000 could be payable.

Taxi clubs appeared to offer significantly lower rates but require higher excesses, particularly if the driver of the taxi was at fault.

As noted in chapter 13, some operators seem to be passing part of the insurance cost onto drivers, with drivers paying the excess or a portion of the excess when they are involved in at-fault accidents. The inquiry has heard that the excess paid by drivers can range from \$750 to \$2,000. A number of operators have also told the inquiry that they charge their drivers an accident insurance surcharge of between \$4 and \$8 per shift.²⁹

Assignment fees

As set out in chapter 5, assignment fees in metropolitan Melbourne have continued to rise steadily over the last few years, by around four per cent per year. The current average assignment fee is believed to be in the vicinity of \$30,000 per annum, although many operators and licence holders are paying amounts significantly different from this. New licence holders (from the Greater Melbourne Taxi Licence Release (GMTLR) release) are also likely to be paying an amount equivalent to about \$30,000 per annum. A fixed price of \$180,000 for a 10 year licence converts to \$30,000 per annum if a discount (financing) rate of 10.5 per cent is used.

Growth in assignments since 2008 has likely added over \$1,000 in cost each year for an average taxi operator. In country areas, the growth is much less visible as the proportion of licences assigned is much lower.

Total costs and revenues

The inquiry has found that operators who do not also own licences (and who therefore face the assignment fee as a cash cost rather than an opportunity cost) are likely to be under significant financial pressure. Recent increases in LPG costs, insurance costs and NSP fees, as well as continual rises in assignments, are driving these financial pressures.

²⁷ Letter from the Victorian Taxi Association to the Taxi Industry Inquiry, 15 September 2011

²⁸ OzCabbie, Jan/Feb 2012, p.2

²⁹ Anonymous taxi operators, responses to Taxi Industry Inquiry taxi operator survey

Inquiry findings

- ➔ Taxi operators are under financial pressure, which has been driven by low vehicle utilisation and genuine cost rises, but exacerbated by an industry structure that directs economic value away from those delivering the services – operators and drivers – and towards licence owners.
- ➔ The inquiry's proposals on licences should deliver some relief to operators in areas with high assignment costs, with falls in assignment costs and changes to regulations on advertising and expanding into new markets. Further pressure will also come onto NSPs to deliver a better value service to operators.
- ➔ A fare rise may alleviate some of the pressures faced by operators, particularly if they are in a position where they are not presently recovering fully their fixed costs of operation. However, any fare rise to alleviate historical cost pressures would need to be modest prior to the implementation of the proposed reforms and there remains a risk that the demand response will render a fare rise ineffective at increasing revenue.

20.3.6. Dealing with rapid and significant cost changes

The recent spike in LPG prices has raised the issue of how these cost changes should be reflected in fares.

Movements in LPG prices have figured prominently in the reasons for fare rises. Fuel prices are a significant cost for taxis. Extrapolating from the ESC's 2008 model, they account for around seven per cent of total costs. However, given that driver payments are commonly a fixed proportion of the fare box, and many other operator costs (such as assignment fees, vehicle leasing and network fees) are fixed, LPG is clearly an important variable cost for taxi operators – around 20 per cent of actual cash outflows.

LPG prices are typically less volatile than petrol prices, with less-pronounced weekly fluctuations. However, they do tend to have significant seasonality and are often driven by northern hemisphere weather conditions.

The industry's view is that taxi operators must be allowed to adjust their prices when there are major movements in the price of LPG. One method suggested to the inquiry is a fuel price levy. This will allow a 'baseline' level of LPG costs to determine fares, with a levy applied every three months or so if prices rise above this baseline.

In 2008, the ESC was asked to provide an interim report looking solely at the then spike in LPG prices. The ESC also looked at the industry's suggested fuel levy proposal but rejected it, on the basis that it was not consistent with the move towards a pre-determined price path and would likely introduce a level of undesirable complexity and administrative cost.

The inquiry examined the evidence on the ESC's last review process and the LPG prices that under-pinned the fare rises in 2008. The inquiry's review suggests:

- The industry has benefited significantly from the LPG price used in the 'fare model' in 2008 being significantly higher than it has been in subsequent years (until early 2012), to the detriment of consumers.
- This problem could have been avoided if an approach that is more responsive to fuel costs had been adopted.

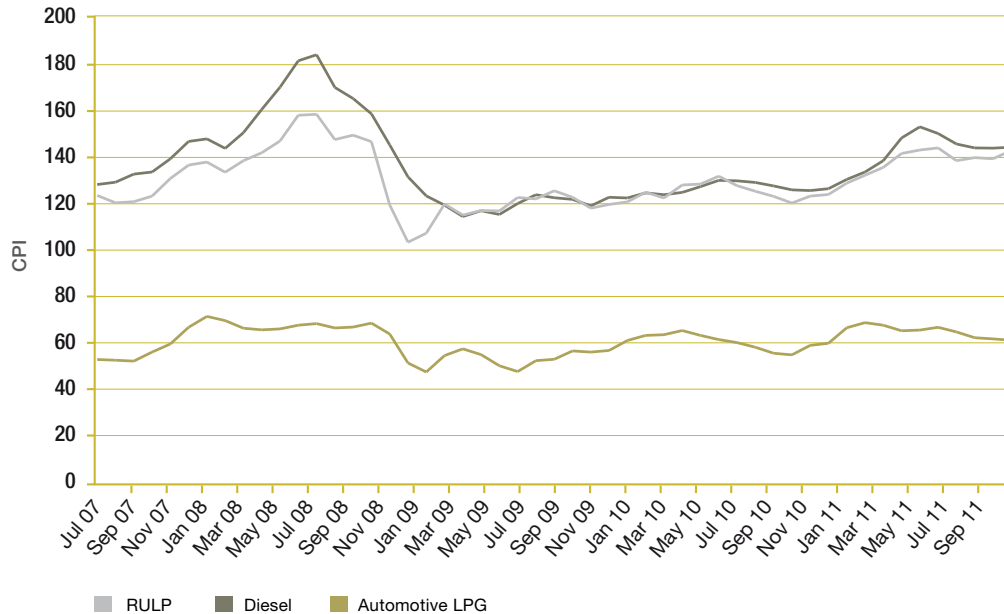
Calculations by the inquiry suggest that the LPG price currently factored into the fare model is in the vicinity of 77 cents per litre, with an expected cost per median taxi in 2008 of \$16,114. This was a 30.9 per cent increase over the cost in 2007, based on June-to-June figures.³⁰ However, as Figure 20.1 (taken from an ACCC fuel monitoring report) shows, prices were substantially lower than this over the entire period up until the last few months. The inquiry further understands that Melbourne has the cheapest LPG prices of the five largest cities.³¹

30 ESC (2008b), Op. Cit., Tables 4.6, B.1

31 ACCC, *Fuel facts: What influences the price of automotive LPG?*, Op. Cit. "For example, Victoria accounts for around 40 per cent of automotive LPG retail sales in Australia, which has resulted in Victoria having the lowest national average retail price for automotive LPG.", p.2

Figure 20.1 Extract from ACCC report, December 2011

Monthly average retail prices of petrol, diesel and automotive LPG in the five largest cities:
July 2007 to September 2011



Source: ACCC

In NSW, IPART is required to undertake a mid-year review of fuel costs. It will recommend a mid-year fare change if LPG prices have increased or decreased by more than 20 per cent from the average price included in the Taxi Cost Index that was used in its last annual review of taxi fares.

Inquiry findings

→ LPG prices are a highly variable cost input. Awarding fare rises to reflect LPG higher costs runs the risk of locking in high prices and profits or, if LPG prices increase from the time of the fare review, forcing operators to under-recover costs for a time. The inquiry's view is that a limited but regular review process that incorporates both increases and decreases in prices would strike a reasonable balance between the interests of the industry and consumers.

20.4. The impact of the inquiry's proposals on costs and fares

The inquiry recognises that some of its proposals will have a significant impact on the costs for taxi operators and the demand for taxi services. The potential effects are discussed below.

20.4.1. Driver payments

The proposal to ensure drivers receive a minimum payment per hour will likely have an effect on operator costs. As discussed in chapter 13, increasing the driver split of revenue to 60 per cent or moving to a minimum payment in the vicinity of \$17 per hour will increase driver payments substantially, which is a key element in a shift towards attracting and retaining higher quality drivers.

Indications are that this may add around 20 to 35 per cent to driver payments. These extra payments will need to be accounted for by either cost savings or revenue increases or both.

20.4.2. Cost savings

As indicated earlier, the major cost items other than driver payments are: assignment fees (or licence returns if the licence is not assigned), LPG, vehicle maintenance, vehicle leasing or depreciation, insurance and NSP fees.

It is clear that the major cost item – and the item that can most readily be reduced – is assignment fees. Small reductions appear feasible and necessary if the industry is to move in a new direction. Nonetheless, the inquiry is conscious that large falls in assignment fees could have detrimental impacts on a number of licence holders, with adverse consequences for those for whom assignment fees are a major source of income.

The inquiry's draft view is that selling new licences at \$20,000 per year will have the effect of reducing the cost of other assigned licences by around \$10,000 per year. This will make a significant contribution towards increased driver payments.

Other cost savings appear feasible in relation to NSP fees, with the removal of mandatory affiliation and the potential removal of requirements for taxis to be painted yellow.

20.4.3. Revenue increases

The industry's current utilisation performance is relatively poor. The inquiry is strongly of the view that this performance has been caused by weak demand, primarily due to perceptions of poor quality and high prices and failure to take advantage of new business opportunities. Reversing this trend will not be easy, but in other markets around the world (such as London) there are examples of where consumers have indicated they are willing to pay more for better quality.³² Increasing minimum terms for drivers and a new independent test for drivers are first steps down this path, and the inquiry expects that an increase in utilisation will result from these policies.

Other potential sources to increase revenue include a relaxation in the ban on advertising and the removal of restrictions on taxis doing certain kinds of work, such as servicing set routes. Again, the inquiry acknowledges that expanding the demand side of the market in this way will not be easy, but the inquiry has heard from many operators – particularly in country areas – that such services can readily be provided, but they are prohibited from doing so.

20.4.4. A fare increase?

The inquiry views a fare increase as the least desirable means of funding an increase in driver payments, for a number of reasons.

First, the inquiry's demand research has revealed that there is a significant risk that fare rises will not increase revenue.

Secondly, existing utilisation seems relatively poor across the industry at most times and fare increases will only exacerbate this.

Finally, the inquiry is reluctant to endorse the awarding of fare rises for current poor performance when there continues to be so much revenue leakage from the industry to licence holders.

Notwithstanding these concerns, the inquiry notes that an increase in fares in the future could be considered to support reforms to driver remuneration and working conditions. It may be that increasing driver payments across the board will have a positive effect in the longer run on revenue via an increase in demand: taxi users clearly value the service of good drivers and better quality drivers should encourage consumers to use taxis more often.

Inquiry findings

- ➔ Increases in driver payments must primarily come from cost reductions and new sources of revenue.

³² As noted in a number of places in this report, London taxis are among the most expensive in the world but consistently attract top rankings of service quality

20.5. Improving the fare structure

Fare structure refers to the different components of the fare. Currently, fares include a flagfall, a distance charge, a time-based charge where travel is slow, booking fares and other special tariffs (such as the 20 per cent late night surcharge). Fare structure issues have been a theme running through previous fare setting reviews, including the ESC's 2005 and 2008 reviews.

Key fare structure issues are:

- The balance between fixed (flagfall) and variable (distance- and time-related) charges
- Time-of-day and time-of-week pricing, particularly to take into account the inquiry's proposals on increasing driver payments
- Discounts for multiple hire, including flat fares
- Booking fees
- Tariffs for vehicles with five passengers or more
- Tariffs for premium services.

In both of its reviews, the ESC noted that its conclusions about fare structure were severely constrained by the lack of available data. For example, Recommendation 5 from the ESC's 2005 review stated:

The rebalancing of fare components should be considered when more detailed industry data and analysis is available. Any rebalancing should have appropriate regard to the likely response on both the demand and the supply sides of the market for taxi services.³³

In 2008, the ESC undertook a more extensive review of fare components but again experienced problems in obtaining information. It was able to recommend some changes to fare structures, particularly in relation to booking fees and surcharges.

The inquiry has sought to remedy these problems with industry data and analysis by commissioning work to better understand the demand side of the taxi and hire car market.

The following sections identify the principles of setting an efficient fare structure and the problems with the current fare structure in Victoria. The inquiry then analyses whether the flagfall and distance charges should be restructured, and whether the existing surcharges should be retained or modified.

20.5.1. Principles for setting an efficient fare structure

In setting a fare structure, the general principle that will maximise the interests of both consumers and taxi operators is that prices should reflect costs. As discussed in section 20.2.1, fares should reflect *marginal* costs as much as possible. This will give the best incentives to drivers to accept fares and to taxi users to take taxis.³⁴ Charges that are higher than marginal costs should be designed in ways that produce the least distortions in behaviour by drivers and passengers.

The theme of incentives and fare structures was addressed in an inquiry-commissioned paper on taxi regulation by Dr Darryl Biggar. This paper, presented at the Taxi Industry Inquiry Independent Roundtable, put forward five economic principles for efficient fare structures:

1. Service providers should be broadly indifferent between different jobs – independent of the length of the journey or the identity of the destination.
2. Service providers should not have an undue incentive to either prolong a job (taking a longer route) or to shorten a job (driving at excessive speed).
3. At all origin points and at all times, the supply of available taxis within a short distance of that point should be reasonable at all times of the day and night.
4. The supply of available taxis in any one area or sub-market should, at all times, not be 'excessive' – that is, significantly larger than necessary to ensure a reasonable response time at that time.
5. The tariff structure should be fixed in advance, stable (or at least predictable) over time and relatively easy to understand.

The inquiry agrees that these are suitable principles or objectives. The challenge is to strike the balance between providing drivers with the appropriate incentives to take fares – by ensuring that trips at least recover marginal costs and that no particular trip is too profitable – with providing consumers with some certainty about how they will be charged.

³³ ESC (2005), Op. Cit., p.112

³⁴ An issue with applying this principle is identifying what marginal cost is. Economists measure marginal costs with respect to some kind of decision – for example, a decision to accept a fare. The marginal costs of accepting a fare include the costs of taking the taxi to where the consumer wants it (in the case of a booked trip). These costs will not be incurred where a taxi is taken from a rank. However, in this case, the driver will commonly incur some cost in queuing at the rank. If the marginal cost is defined as the cost from the decision to stay at the rank until a trip is taken, then arguably this waiting time could be part of marginal cost

20.5.2. Problems with the current fare structure

The inquiry has observed and been told of two main issues that appear to relate to the current fare structure: short fare refusals and taxis queuing at the airport waiting for longer fares. Both issues relate to the balance between fixed charges (the flagfall) and variable charges (the distance charge and waiting time charge).

Short fare refusals

As noted throughout this report, one of the strongest and most consistent criticisms from passengers is short fare refusals. Many in the industry comment that the solution is simply greater enforcement. However, that is a costly option and goes against the commercial incentives of drivers.

A better starting point is to consider the incentive for a driver to refuse a certain fare. Drivers presumably refuse short fares in the expectation that a longer fare will eventuate or because the costs of driving the car to a booking exceed the net profit from the trip itself. Drivers often say that they have waited for a long time at a taxi rank and if they accept a short fare then they will have to go to the back of the rank (or the end of the dispatch queue) once the job is finished. If that characterisation is accurate, raising the price for a short fare and lowering the price of a long fare might encourage drivers to accept them more readily without affecting overall revenues.

Airport trips

Airport trips (to and from Melbourne Airport) are an important feature of the Melbourne taxi market. In large part, the attractiveness of the airport reflects the fact that the average trip to and from the airport is 26 kilometres and drivers can reasonably expect a good fare. Ultimately, this is driven by the fact that the fare per kilometre rate is well above the marginal costs, which consist of payments for drivers' time and vehicle costs.

As an example, the inquiry has assessed the average trip – and the one that forms an expectation for drivers – from the airport to the Melbourne CBD. If the opportunity cost of the driver's time is \$12.50 per hour³⁵ and the airport trip takes 35 minutes (with minimal traffic), then the marginal cost of the trip will be around \$10.29. This is made up of driver costs of \$7.29 and vehicle costs of \$3.00 (based on vehicle costs of 12 cents per kilometres times 25 kilometres). The metered fare for this trip will be \$43.45, of which the driver will likely receive around \$21.73. This creates a gap between the fare and the opportunity cost of the driver's time of \$14.43.

Table 20.3 Estimate of the marginal cost of an airport journey

Example inputs	Values	
Trip length	25	(1)
Average time taken	35	(2)
Driver cost per hour	\$12.50	(3)
Driver cost total	\$7.29	(2) / 60 * (3) = (4)
Vehicle cost per km	\$0.12	(5)
Vehicle cost total	\$3.00	(5) * (1)
Metered fare	\$43.45	(6)
Driver share of fare	\$21.73	(6) * 50% = (7)
Fare less cost	\$14.43	(7) – (4)

Source: TII estimates

The gap between fares and marginal costs provides the basis for drivers being willing to spend long periods queuing at the airport to secure one of these fares. Operators, who take the other \$21.73, are also likely to favour queuing by drivers as the gap between operator share and marginal cost is even higher. This has several undesirable consequences:

- There are more vehicles queuing at the airport than are reasonably needed to meet the demand from airport passengers. This has meant that special holding parks have had to be created, increasing the costs to the airport and ultimately to taxi users (who are levied a fee of \$2 for taxis taken from the airport).
- The long queues frustrate drivers and lead to poor passenger experiences when the fare happens to be shorter than a driver expected.
- The queuing at the airport reduces the availability of taxis in the rest of Melbourne, adding to waiting times in these areas. At some times of the day and week, up to 800 taxis may be at the airport. Given the city has 4,335 taxis that could be on the road at any time (generally fewer taxis than this are available at any time), a very conservative calculation suggests that up to 18.5 per cent of the metropolitan taxi fleet is at the airport (in reality, this proportion will be higher as only rarely is there a high proportion of the fleet on the road).

³⁵ This is the driver's share of the fares that could be earned elsewhere. This is well below the waiting time implied by the current fare structure of \$33.96 per hour, which applies when the vehicle is travelling below 21 kilometres per hour. If airport trips do involve considerable waiting time, on average, then this will be an additional benefit to the driver

The VTD addresses the issue of efficiency of vehicle use in its submission to the inquiry:

A VTD concern is the possibility that too many taxis currently wait idle for long periods in the Melrose Drive holding yard, hoping to secure a large return fare, when those vehicles could be more productively used elsewhere...³⁶

The VTD also raised a specific issue about the detriment caused from the attraction of WAT vehicles to the airport:

Anecdotal reporting particularly identifies an over-supply of wheelchair-accessible taxis waiting at the airport, rather than targeting their services to people with disabilities.³⁷

The inquiry received a number of submissions on potential solutions to the airport queuing problem. These solutions generally involve restricting access to the airport in some way. One example is the use an 'odds and evens' system on number plates – meaning that only half the taxi fleet can service the airport on that particular day. Los Angeles has a more sophisticated token system, which limits taxis' access to the airport to pick up fares to around one day in five.³⁸

While some of these systems can be straightforward to implement and 'fair' from the perspective of drivers, such schemes have high efficiency costs and can lead to poor service. Many taxis will have to return from the airport empty on days when they are not eligible to seek a return fare. Taxis may also refuse to take a fare going to the airport if it is not their rostered day at the airport.

A better option is to alter prices to better reflect marginal costs, making longer journeys less lucrative (and therefore less worth waiting for). There are two possible methods by which this can be accomplished:

- Increasing fares for short distances and lowering them for long distances (including airport trips). This fits with reducing the extent of short fare refusal, as discussed earlier.
- Introducing fixed fares from the airport to popular locations such as the CBD. For example, at JFK Airport in New York there is a fixed fare from the airport to anywhere on Manhattan.

In the following section, the inquiry considers whether increasing fares for short trips and lowering them for long trips will be sufficient to mitigate existing airport issues as well as short fare refusals.

Inquiry finding

- Short fare refusals and over-capacity at the airport cause considerable consumer detriment and efficiency losses for the industry. Altering the fare structure would help to alleviate both of these problems.

20.5.3. Restructuring flagfall, time and distance charges

In 2008, the ESC found that significant changes to the relationship between the flagfall and distance charges could be detrimental. The ESC's data suggested that short trips were important to the overall revenue of the taxi industry, as trips of less than 5kms accounted for around 45 per cent of all taxi trips. Further, because the ESC was not certain about whether the price elasticity of demand changed as trip length changed, it could not determine the effect of significant changes to the balance of fixed and variable charges in the fare.

A key purpose of the flagfall charge is to provide sufficient incentives for drivers to undertake short trips and to efficiently recover costs from users. The ESC attempted to quantify the optimal tariff structure, based on the information presented earlier on cost structure and trip distance profiles and its preliminary estimates of the price-sensitivity of demand. It did not have sufficient confidence that the analysis could be used to formulate detailed recommendations in relation to the tariff structure.

However, the ESC did consider its analysis was sufficient to demonstrate that there would be a strong risk of reducing economic efficiency if there was a significant increase in the flagfall charge or a relatively high minimum charge. It therefore recommended that the flagfall charge not be increased from its present level.

Optimal tariffs

The ESC's methodological approach to setting efficient fare structures was based on estimating an optimal tariff structure. Such exercises seek to recover the costs of taxi service in the most efficient way possible – meaning that costs are recovered in such a way as to minimise the impact on the quantity of trips taken by users. In other words, a better fare structure will be one that charges more for trips where consumers are relatively insensitive to price and less for those trips where consumers are sensitive to price.

³⁶ VTD (2011), Op. Cit., p.10

³⁷ Ibid.

³⁸ Blasi & Leavitt (2008), Op. Cit., p.54

The inquiry has considered whether it should undertake a similar exercise, based on data it has gathered. The inquiry has begun some preliminary modelling, but it is not sufficiently developed to produce reliable estimates of optimal fare structures. However, the inquiry believes there is already sufficient evidence to support a change in fare structure even without this modelling. The modelling is best suited to quantifying how large these changes should be, although invariably an element of judgement will be required because other factors are also relevant. In particular, it is also relevant to take into account drivers' incentives to take trips of different lengths; as noted earlier, a good fare structure will also need to leave the driver relatively indifferent between trips so as not to encourage fare refusals or inefficient queuing.

To determine an optimal tariff structure across different trip lengths, estimates of the following are required:

- The marginal and fixed costs of supplying trips of all lengths
- The demand for different trip lengths
- Demand elasticities for different length trips (how fare changes will affect the quantity of trips consumed of that length).

The ESC undertook this exercise in 2008, using the data sources listed in Table 20.4.

Table 20.4 Data sources for analysis of fare structure

Input	ESC's data source in 2008 fare review
Cost information	PWC 2007 survey of taxi operators
Demand for different trip lengths	VATS travel data (1994/95)
Demand elasticities	Literature review

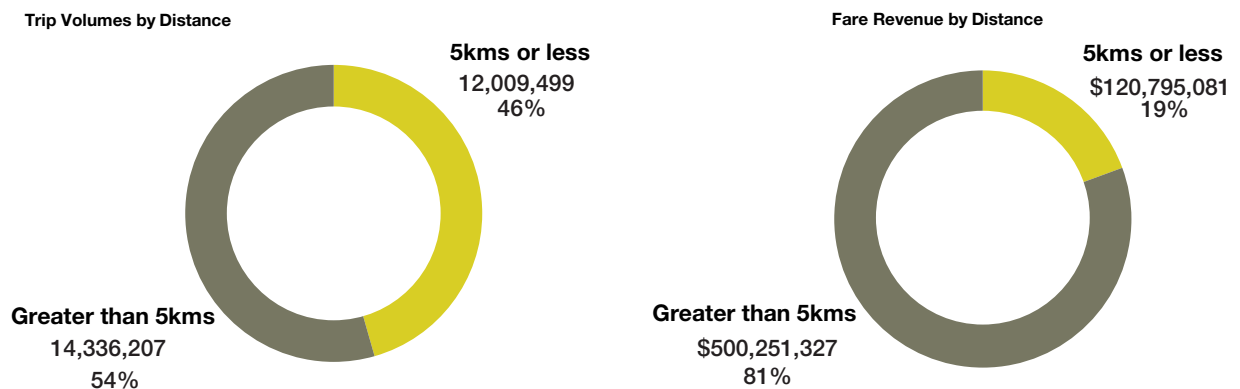
The ESC had no information on whether the price sensitivity of consumers to shorter or longer trips differed. It subsequently assumed – as a ‘base case’ – that the elasticity was the same across different length trips.

The inquiry has new sources of information for the latter two items on the list in Table 20.4: trip data taken directly from metropolitan Melbourne NSPs and demand elasticity information from commissioned survey work on demand. Again, the inquiry notes that these data are specific to Melbourne, making it difficult to simply extrapolate the results to urban or country zones.

Trip data

The metropolitan trip data obtained by the inquiry confirms that the ESC's previous estimates about trip lengths were accurate. As shown in Figure 20.2, trips and trip revenue are split between journeys of five kilometres or less and further than five kilometres. Although over 45 per cent of trips are shorter than five kilometres, these journeys only account for 19 per cent of revenue.

Figure 20.2 Trip volume and revenue, shorter and longer trips



Source: Melbourne metropolitan NSP data and DOT fare estimator

The implication of these data is that while there are large numbers of relatively short trips, they are not such an important source of industry revenue.

Demand elasticity

The demand analysis prepared by The Hensher Group for the inquiry provides an important source of information on the elasticities of demand for various trip lengths. Elasticities were broken into three fare lengths: short (less than 20 minutes), medium (20-40 minutes) and long (40 plus minutes).

Various fare combinations can be entered to test the impacts of different structures on demand. Table 20.5 presents results from an ‘across the board’ increase in fares, which highlights the different effects this would have on trips of different lengths.

Table 20.5 Estimation of effect of 10% fare rise on demand for different trip lengths

Trip length	<20 minutes	20-40 minutes	40+ minutes
Effect of 10% fare rise	-10.3%	-12.3%	-14.0%

These data suggest that there is some difference between consumers’ price sensitivity to different length trips. This provides some support to the notion that increasing fares for short trips and decreasing them for long trips may be of overall benefit. However, this also depends on the size of existing markups of fares components over their respective costs.

Cost information

In analysing fare structure, the ESC categorised costs into three types: fixed costs, driver payments and ‘on-road’ costs. These costs were then attributed to different fare components (such as distance, flagfall and booking) and the remaining indirect costs were then allocated to these fare components on the basis of overall elasticities.

As noted earlier, the inquiry does not have new comprehensive cost data from operators, although it has some information that suggests that changes should be made to the ESC’s cost information. The inquiry will present further analysis of cost data and its relevance to fare structure in its final report.

Analysis of key balancing issues

The inquiry has investigated whether the tariff structure could be improved by increasing the flagfall and lowering the distance charges. This will increase the incentive for drivers to undertake short fares and reduce the incentive for drivers to queue for long periods at Melbourne Airport. It should therefore improve service availability across Melbourne.

A difficult question to resolve is how high the flagfall needs to be to discourage short fare refusals. Anecdotally, there is some evidence to suggest that it might need to be quite high. Table 20.6 shows a series of (revenue neutral)³⁹ fare structures that could be adopted.

39 The data in Table 20.6 is calculated so that total industry revenue remains unchanged under each scenario. Thus when flagfall rises the distance charge must fall

Table 20.6 The impact of flagfall restructuring on metropolitan fares

Flagfall increase	current fares	Double the flagfall	\$8 flagfall	\$10 flagfall
Flagfall (\$)	3.20	6.40	8.00	10.00
Distance charge (\$/km)	1.617	1.34	1.20	1.03
Sample journeys				
1 km trip	6.86	9.53 (38.9%)	10.88 (58.6%)	12.56 (83.1%)
2 km trip	8.66	11.02 (27.3%)	12.22 (41.1%)	13.71 (58.3%)
Short city trip	12.15	13.91 (14.5%)	14.82 (22.0%)	15.94 (31.2%)
Friday night trip home	18.65	19.29 (3.4%)	19.66 (5.4%)	20.09 (7.7%)
Across town	31.43	29.87 (-5.0%)	29.17 (-7.2%)	28.25 (-10.1%)
Airport trip	55.46	49.76 (-10.3%)	47.06 (-15.1%)	43.61 (-21.4%)

Table 20.6 shows the changes in fares for a sample of journeys when the flagfall rises and there is an offsetting reduction in the distance and waiting time charge. The figures in brackets are the percentage changes from the current tariffs.

Doubling the flagfall will reduce the cost of journeys to and from the airport by around 10 per cent (based on a 28km journey), but raise shorter trip fares by around 15 to 40 per cent: the shorter the fare, the greater the rise.

The inquiry observes that there is some question whether reducing the distance charge to offset a doubling of the flagfall would sufficiently reduce drivers' incentives to wait at the airport. Drivers would only lose half of the \$5.70 fall in the fare (\$2.85), reducing the gap between the fare and the estimated opportunity cost of the driver's time to around \$12. Raising the flagfall to \$10 would decrease an average airport fare by nearly \$12, of which the drivers would lose \$6. This would reduce the gap for drivers to below \$10, and this may encourage drivers to seek work elsewhere and thus reduce the efficiency costs of overly-long queues of taxis and reduce waiting times elsewhere in Melbourne.

For shorter trips, a flagfall increase may make some fares more attractive to drivers and reduce the refusal problem. But an increase in flagfall to \$10 would increase fares for short journeys quite substantially – more than 80 per cent for very short fares. This may have a substantial impact on demand for these trips, particularly by lower income groups in the community. Elasticity estimates presented in Table 20.5, for example, suggest a significant fall in the number of short fare trips taken. Further, a fare structure which reduces distance and waiting time charges substantially could introduce new problems. In particular, the concern may turn from one of short fare refusal to long fare refusal. This could occur if drivers end up in locations where a return fare is unlikely or where road congestion is particularly heavy. This might be particularly problematic, for example, for fares taken to outer suburban locations.

Given these uncertainties, such a radical rebalancing would be risky. A less risky approach might be to introduce a re-balancing in two stages, with the second stage to be implemented if there is evidence that problems of short fare refusals and lengthy airport queues continue. At that juncture, it would also be worth further considering fixed fares between the airport and the CBD (and possibly other locations). Ultimately, some experimentation may be required to get the balance right.

A possible modification to the fare structure described above would be to introduce a minimum fare. This would allow for a higher flagfall to be introduced combined with a set distance as part of the one charge. Under this approach the price effects for very short fares would still be large, although for fares closer to four or five kilometres the change may be less significant. An example might be a minimum fare of \$10, which would cover the existing flagfall plus just over four kilometres of distance, assuming there were no waiting time charges (when speed drops below 21km per hour). This would imply a significant fare increase for journeys of less than two kilometres, but a negligible effect on journeys between two and four kilometres. Journeys longer than four kilometres should become cheaper if the additional revenue obtained from short trips is put towards lowering distance charges.

There are two further considerations in changing the fare structure balance:

- *The equity effects of any fare restructure* – it may be that those reliant on taxis as their primary transport mode (such as older Victorians or people with reduced mobility) take a higher proportion of short trips and will be adversely affected by a higher flagfall. On the other hand, evidence to the inquiry suggests that short fare refusals are a significant concern for this group, so some balance must be struck between the cost of the service and the likelihood of refusal. As this group of consumers is also more likely to hold MPTP cards and to receive a subsidy on taxi trips, there may also be some financial implications for the government from raising the price of these trips.

- *Whether it is suitable in country areas* – the inquiry is less inclined to recommend changing the fare structure in these areas for three reasons. First, the inquiry's demand information relates to metropolitan Melbourne and may not be applicable to country areas. Secondly, the inquiry's information on trips indicates that country operators often do a much larger number of short trips than operators in Melbourne. Data from MPTP trips suggest an average fare of \$20.84 in metropolitan and outer suburban zones, and \$14.82 for urban and country zones. This means the risks of 'pricing out' short trips with a higher flagfall are higher, particularly where there are a large proportion of taxi users who are elderly or have few other transport options. Finally, the inquiry has not heard of the same kinds of issues with fare structure that have arisen in metropolitan areas. In particular, one issue that has been raised in country areas is that dropping the distance rate may not be appropriate because longer jobs in the country are associated with higher dead running costs – that is, the operator will not be able to get a new job where the longer job ends because the operator will likely be in another zone or an area where there is little work.

Inquiry findings

- ➔ The inquiry's analysis suggests that a rebalancing of fixed and variable charges should occur. This will increase the attractiveness of short fares and decrease the attractiveness of longer trips for operators and drivers. This will ameliorate short fare refusal issues and potentially reduce the excessive queuing observed at Melbourne Airport.
- ➔ If the proposed re-balancing does not have an effect on taxi supply at Melbourne Airport, a further examination should be undertaken by the ESC of fixed fares for this route.
- ➔ The inquiry intends to undertake further modelling between the release of the draft report and the final report to quantify the possible effects of different fare structures on patterns of demand. However, an element of judgement is still likely to be required to take into account all relevant information.
- ➔ Re-balancing of fares in country areas appears to create greater risks of harming consumers. A change in structure seems unwarranted at this time.

20.5.4. Varying charges by time of day or week

The current fare structure allows for a late night surcharge of 20 per cent (midnight to 5am) in metropolitan Melbourne and \$3.00 (midnight to 6am) in urban and country zones. There are no other variations in fares across the week.

The issue of varying charges by time of day or week is complex and must consider a number of factors. Changes in costs are an obvious factor to take into account. Changes in demand are also relevant. However, the most difficult factor is how to take into account the supply and demand interdependency that distinguishes taxi markets from other kinds of markets – in other words, fares cannot be set for a particular time without considering not only how it will influence consumer behaviour and driver behaviour (vehicle availability) directly, but also how consumer behaviour might then *respond* to driver behaviour.

For example, on Monday and Tuesday evenings after 12 midnight there is little demand for taxis and there are subsequently few taxis on the road. If the number of taxis falls to a level where waiting times become very long, this will act to further reduce demand. A regulator may take action to increase or decrease fares in response to this situation:

- *Lowering* fares might be thought to be sensible to stimulate demand at these times. However, this will also have a further effect on taxi availability – if demand does not respond to lower fares, then fewer taxis will become available and demand will fall further.
- *Raising* fares will have an effect on supply of drivers and vehicles, as each trip will become more profitable, but consumers will now take fewer trips. In fact, total revenue may fall if demand at this time is price elastic (that is, quantities fall in percentage terms by more than fares rise). There will also be a further effect on waiting times: more vehicles and fewer trips will lower waiting times and possibly raise demand.

Getting the balance right is clearly very difficult for a regulator that does not have access to high quality information about operators' cost structures and consumer demand.

A key issue with the inquiry's proposal to provide a higher share of revenue for drivers, or minimum hourly rates of remuneration, is the effect this has on operators' cost structures. In particular, if changes are implemented, then the fare structure should support the operators' cost structure by varying across the week. This will help to ensure that taxis are on the road at the time they are most needed.

The inquiry's discussion of driver remuneration issues in chapter 13 suggested that fare differentiation across the week was most important to ensure vehicle availability on Friday and Saturday nights, when there are significant demand peaks. Studies undertaken by Ipsos Social Research Institute and Latitude Insights for the inquiry reveal that many taxi users report problems in accessing a taxi, with a definite peak in these problems on Friday and Saturday nights. On other nights, there appears to be less of a need to entice vehicles onto the road.

The inquiry considers that the reduced operator share of revenue may have adverse effects on service on Friday and Saturday nights unless the changed share is reflected in higher taxi fares at these times. Taxi revenue across Friday and Saturday night shifts averages just under \$40 per hour (exclusive of GST), which is split between operators and drivers as around \$20 each. A 60:40 agreement that splits revenue so that the driver receives \$24 and the operator \$16 would make operators worse off at these times and potentially reduce service, which is undesirable. Increasing operators' returns back to \$20 an hour would imply that total revenue would need to reach \$50 per hour, 25 per cent higher than currently. As discussed in chapter 13, it would be desirable to extend the time for the current (20 per cent) late night surcharge to commence from 10pm and continue to 5am. Raising fares by an additional 20 per cent for this period would then be sufficient to produce the increased revenue, if the higher fares did not materially reduce demand at these times. If the minimum hourly rate option was implemented, there would be similar considerations about fare structure that would apply; fares would need to increase at peak times to reflect higher driver remuneration at these times.

Inquiry finding

- ➔ Fares should be restructured to reflect changes to driver payments. Tariff 2 should be abolished on Sunday to Thursday nights, but the higher charge on Friday and Saturday nights should result in a higher surcharge than currently exists. This will better balance supply and demand at these times.

20.5.5. Fares to better promote shared rides

The issue of share rides is discussed in chapter 19. The inquiry believes that considerably greater use could be made of these kinds of trip types. Allowing for these trip types within the current regulated fare structure present some challenges, if fares for these trip types are to be regulated.

The inquiry believes that an appropriate objective for these fares should be to allow taxi operators to experiment with innovative fare structures. This is necessary to promote more efficient use of taxis. However, protections may need to remain in place should this innovation allow consumers to be exploited by being charged more than the metered fare for the trip, if taken alone.

A strong case can be made for allowing fixed or set fares for particular journeys. These kinds of fares are compatible with customers undertaking regular journeys or services that operate along fixed routes.

The distinction between shared rides and fixed routes is potentially important for pricing purposes. Shared rides are more amenable to fare regulation. Currently, shared rides occur using 75 per cent of meter charge for each individual passenger. Regulations could allow for fixed fares to be negotiated, but for the meter to run to ensure that no passenger pays more than 75 per cent of the metered fare.

A fixed fare for a set route service could work in a similar way. However, the inquiry understands that it not currently permissible to recover more than the metered fare, even where each individual passenger in the taxi pays less than the metered fare. This appears to rule out fares that would be beneficial for both passengers and operators.

The use of taxis as shared ride vehicles should deliver particular benefits in country areas, where other transport options are not available. The inquiry believes that utilisation of shared rides is most likely to be realised in country areas if the barriers contained within current regulation are relaxed. Of course, this would also be consistent with a more general move to remove maximum fare regulation in these areas.

Inquiry finding

→ Fixed fares should be allowed to encourage the use of shared rides, and where they are viable, fixed route services.

Case study

Allowing for share rides and set route services

Scenario 1 – Share ride

Three customers are at the taxi rank in Main Street, Bacchus Marsh at 1am on a Saturday morning. All wish to travel to individual locations in Gisborne and are not known to each other. The estimated fare for this journey is \$67. Rather than take three individual taxis, the driver at the rank offers to take all of them together for \$30 each. The hiring rate is permissible because no hirer is charged more than 75 per cent of the total fare. They agree and the driver takes the three customers. The meter runs throughout the journey, enabling the customers to evaluate the driver's estimate of the fare and ensure that they are getting a good deal. The customers are satisfied because they have each made a saving of \$37 and the driver is happy because he has made an additional \$23 for the journey.

Scenario 2 – Set route

Customers in Melbourne's CBD want to go to St Kilda. A high-occupancy taxi offers a half-hourly service from midnight to 5am running from Melbourne to St Kilda for \$10 each. A group of three friends would likely take a single taxi, as the fare for this journey is likely to be around \$22 depending on traffic conditions. However, three passengers who are not part of a group take the high-occupancy taxi service and pay \$10 each and \$30 in total. The operator has made more than the metered fare but each individual passenger will benefit because they save \$12 compared to the cost of getting a taxi alone.

20.5.6. Other fare structure issues

As noted above, the inquiry has identified a number of other fares structure issues. However, it has not received information or suggestions about these in submissions. While the inquiry welcomes further discussion on these matters, they may be better addressed by the ESC in future fare reviews.

Booking fee

Under the current fare determination, booked taxis can charge a booking fee, which is set at \$2 for the metropolitan and outer suburban areas and \$2.10 outside this area. This fee has been part of the fare structure for a long time – with a ‘radio surcharge’ of 40 cents in place in 1975.⁴⁰ Although the rationale for this fee is not clearly articulated, it seems to be aimed at compensating drivers for positioning their vehicles to get to the pick up point and to allow drivers to pull over and bid for the fare and execute any necessary paperwork.

The fee does not provide *direct* income for the booking service⁴¹ as this is provided by the affiliation fees, although the ESC in 2008 suggested that some of the affiliation fee could be regarded as a cost for providing the booking service and directly attributed this to the booked market.

The issue is whether the fee remains a relevant consideration. Drivers these days lose little time in bidding for a fare. In addition, there are costs associated with all jobs: taxis waiting at a rank (including driving to the rank) or cruising looking for a fare also incur costs. These are not separately identified and priced. In country areas where pre-booked work predominates, the arguments may be stronger for retaining a booking fee. The inquiry welcomes further discussion of these issues.

There is no agreement on charging a booking fee in other jurisdictions. The booking fee is \$1.50 in Queensland, \$2.10 in NSW and \$1.50 in Western Australia. It appears not be charged in South Australia, the ACT, NT and Tasmania. In New Zealand, some companies charge a booking fee while others do not.

Inquiry findings

- ➔ Extracting a booking fee as a separate charge does not appear well founded, as there are costs in non-booked work that are not accounted for.
- ➔ The inquiry welcomes comments on whether there is a need to consider whether the booking fee is effective compensation for dead running to a short fare. Otherwise these fares may not be serviced.

Tariff 3 and premium surcharges

Tariff 3 is a 50 per cent levy on the standard fare that may be applied when there are five or more passengers in the vehicle or when a hirer (not using a wheelchair) specifically requests a larger than standard taxi.

The ESC’s view in 2008 was that the high occupancy tariff gave operators an incentive to purchase the larger, more expensive vehicles that are needed to provide this service. However, in chapter 15, the inquiry notes that the current fare structure, including Tariff 3, appears to be contributing to long wait times for WAT vehicles. This is because many WATs wait at the Melbourne Airport rank in the hope of applying the Tariff 3 fare for larger groups of travellers with luggage. This reduces the availability of the WAT pool for the rest of the city.

The inquiry has examined whether the distortions created by the current structure of Tariff 3 can be reduced and notes that four issues are important to any reconsideration of the tariff:

- The higher vehicle cost of higher occupancy vehicles is a fixed cost – it does not vary with use of the vehicle. This means that any charge levied based on use of the vehicle has the potential to distort driver and operator incentives. Better charges will reduce these distortions and help to maximise the consumption of high occupancy services.
- The inquiry has already suggested that there are distortions associated with fares for long journeys generally being too high, including long waiting times for drivers at the airport and short fare refusals. Proposed changes to the fare structure will also affect Tariff 3, as this is applied as a levy on the standard rates.

⁴⁰ Pak-Poy, P.G. and Associates P/L (1975), Op. Cit., p.5

⁴¹ Neither is it directly related to affiliation fees which are a set amount each month and do not vary depending on how many jobs they provide for each taxi

- There are additional arguments to suggest that changing the fee to a fixed dollar amount is appropriate. This should be designed to make operators of high occupancy vehicles no worse off on average. This would have the effect of increasing the incentive to undertake short high occupancy trips (such as around the city or suburbs) and reducing the incentive to do longer trips (such as to and from the airport). A preliminary analysis of Tariff 3 suggests that a charge of between \$10 to \$15 would make operators no worse off on average but considerably reduce the profitability of longer journeys.
- Tariff 3 has also been subject to allegations of fraud, which would be less likely to occur if a fixed dollar amount is added to the meter at the start of the journey.

Inquiry finding

- ➔ The structure of Tariff 3 can and should be improved. A fixed charge of between \$10 to \$15 added to the meter at the start of the journey will provide a better balance of incentives to operators and drivers.

Chapter 21.

21. Taximeters

Key messages

- Taximeters are a key piece of equipment that all taxi-cabs are required to have.
- Taximeters calculate fares payable based on the approved fare structures including flagfall, distance rates, waiting time and other elements, incorporated in licence conditions.
- The accuracy of taximeters is critical both for effective regulation and competition in taxi markets.
- Consumers have expressed significant concerns about the use of taximeters, including non-inclusion of all elements of the fare on the meter, failure to use the meter properly and accessibility of the meter for passengers with a disability and, in particular, visually impaired passengers.
- The regulation of taximeters is prescriptive and does not focus sufficiently on the achievement of necessary outcomes.
- A more outcomes-focused approach to the regulation of taximeters would help to encourage innovation and the better design of meters to meet consumer needs.
- The regulator has not had an active involvement in testing the accuracy of taximeters.
- Evidence obtained by the inquiry suggests that there are grounds for concern about the accuracy of some taximeters. This could be imposing significant costs on consumers each year although it has not been possible to estimate what this amount might be.

Taximeters are a required piece of equipment in taxi-cabs in Victoria. Taximeters not only provide the means to calculate fares, they also give passengers information about the fare during the course of a trip.

Importantly, meters also have a potentially significant role to play in the provision of data to the regulator.

This chapter discusses comments received by the inquiry in relation to taximeters, the regulatory framework covering meters and current issues and concerns with the operation of meters. The chapter then advances some options for improving the regulation and operation of taximeters.

21.1. Introduction

Taximeters calculate the fare payable for each journey in a taxi-cab based on the Government-approved fare structure and other elements incorporated in licence conditions.

Unlike hire cars, where fees are negotiated between driver and passenger, taxi customers rely on the taximeter for the accurate calculation of regulated taxi fares. The taximeter is central to the operational integrity of the Victorian fare regime for taxis.

In practice, a driver starts a new shift with the taximeter cleared of all previous trips and the meter is then manually started as the driver commences each new job. Fare costs are automatically calculated and accumulated by the meter over the course of each passenger trip. As a passenger ends a journey the taximeter is manually stopped and a final fare calculation displayed for payment and receipting purposes.

The taximeter stores the data associated with each trip until the driver ends the shift. As the shift ends, all the trip data for the shift (sometimes known as the 'shift report' and typically involving data for 10 to 20 trips per 10 to 12 hour shift) is printed by the driver and used to reconcile the fare box for the shift. Drivers use the shift report to balance cash, vouchers and electronic payments taken during the shift for the purpose of settling their payment as per their agreement with the operator of the taxi. As noted elsewhere in this report, it is common practice for many drivers to split the total on the meter at the end of shift 50:50 between the driver and the operator. This arrangement means that operators and drivers depend heavily on the accuracy of taximeters to track and record total income for each shift.

Originally designed to be tamper proof as a stand-alone device, each meter has three main components:

- A taximeter display that is usually visible and mounted on the dash of the taxi
- An electronic pulse generator linking the drive shaft of the vehicle to the meter
- A connection box that links the meter electronically to the Mobile Dispatch Terminal (MDT) and the primary electronic payment processing (EFTPOS) device.

In recent times, the devices in taxis that support dispatching and payments, as well as metering, have become more interconnected and information from each device is able to be shared and integrated. The level of integration between devices currently varies between suppliers, with most working to tighten the link between metering, payments and dispatch systems.

Taximeters have been in use for many decades, along with an ageing regulatory framework that is now under challenge from relatively recent developments involving a wide range of technologies. These developments have significant implications for taximeters, their accuracy and their regulation.

21.1.1. Submissions and consultations

One of the key benefits of a taximeter is to give customers confidence that what is being charged by the taxi driver is correct and there is transparency in the costs. However, the inquiry received feedback from taxi customers, particularly people with a disability, who experience difficulties in understanding what they are being charged for taxi services.

Problems highlighted include not being able to see the taximeter display due to its position on the dashboard near the driver and the lack of audible signals from the meter (including the voicing of the fare for passengers with vision impairment). Issues are also reported with the final taximeter fare not including all charges applied to particular trips, such as lifting fees, tolls and other charges – a practice that is confusing for consumers and causes misunderstandings and disputes.¹

Transurban, which owns and manages CityLink, has also raised issues about the charging of tolls in taxis, indicating that while the current system works, there is “taxi customer confusion associated with toll payments and evidence of drivers overcharging passengers”.² Transurban suggests that taximeters with GPS technology could calculate tolls and add them to the meter, rather than the existing flat fare arrangement which mean that customers taking short trips pay more than they should for tolls.

The inquiry also met with several taximeter manufacturers who voiced dissatisfaction with the current regulatory process for meter approval. Some manufacturers indicated that they had developed GPS tolling capabilities for their products and that these products had been with the regulator for over a year awaiting approval. Some have already developed products with the capability to voice the metered fare along with tolling fees and other fees as they are applied over the course of the journey. One supplier indicated that the company had developed, manufactured and operationally deployed sophisticated taximeters that had fully tested capability to calculate fares for shared rides. These were installed and used for a time, but eventually discontinued seemingly due to a combination of lack of appetite from the industry to adopt innovative approaches to service delivery and only mild interest on the part of the regulator.

¹ For example, toll road fees are added as a lump sum at the end of the trip as an ‘off meter’ charge by the driver who manually adds the toll fee to the fare displayed on the taximeter and advises the passenger

² Email from Transurban to the Taxi Industry Inquiry, 8 September 2011

21.2. The regulatory framework

The requirements for taximeters are contained in Part 5 (sections 44 and 45) of the *Transport (Taxi-Cabs) Regulations 2005*. Under the regulations, a taxi cannot be operated unless a taximeter approved by the licensing authority is fitted. The taximeter is required, amongst other things, to:

- Have been tested and sealed by a person authorised to do so by the licensing authority
- Be programmed to record and display only the fares and additional charges allowed under licence conditions
- Be able to be clearly read from each forward facing seat in the taxi.

Taximeters, like other in-cab equipment, are given type approval by the Victorian Taxi Directorate (VTD) where they satisfy regulatory requirements and meet the VTD’s equipment specifications.³ VTD specifications require meters, among other things, to:

- Operate with the applicable tariffs and surcharges
- Automatically determine applicable tariff based on time of day and date
- Allow only a limited predefined range of extras to be added (and only at the start of hire)
- Interface with an EFTPOS terminal (using a specified interface standard to enable processing of Multi Purpose Taxi Program (MPTP) payments electronically)
- Display the tariff being used through the tariff lights on the roof dome
- Display the applicable tariff, cumulative fare total and predefined extras to the passenger
- Provide a printed receipt that includes the taxi number, driver ID, ABN, itemised fare, total paid and payment date
- Prevent unauthorised changes to taximeter components that affect fare calculation, date and time
- Be sealed in a manner approved by the VTD
- Be capable of electronically incorporating other variable extras such as the airport fee and tolls via a separate electronic interface or via the link to the EFTPOS terminal
- Display current calibration settings
- Aggregate the driver entitlement to the 20 per cent late night and public holiday surcharge and store on a shift basis to assist fare box settlement.

³ Some of these requirements have been publicly gazetted. See for example www.gazette.vic.gov.au/gazette/gazettes2007/GG2007G021.pdf, accessed 3 April 2012

The VTD has a process in place to review and approve electronic equipment. Approvals are generally given if equipment appears to satisfy the regulatory requirements and the VTD's own equipment specifications. Victoria's regulatory requirements for taximeters and other taxi information systems are similar in nature to those in other Australian jurisdictions, although no two states' requirements appear to be identical. This lack of consistency in requirements between states has an impact on the number of suppliers in the market. The variations between states also translate into higher development and compliance costs for local industry as manufacturers, their suppliers, installers and service agents have to produce equipment configured differently for each state.

Some attempts have been made in the past to harmonise taximeter regulation across the states. At one point, consideration was given to adopting the taximeter standard recommended by the International Organisation of Legal Metrology (OIML).⁴ However, a national approach has yet to eventuate.

21.2.1. MPTP payments

MPTP members are required to have their taxi subsidy payments processed electronically by EFTPOS equipment that is physically linked by data cable to the taximeter in each taxi. As discussed in chapter 12, this arrangement was introduced to tackle instances of fraudulent manual processing of MPTP subsidy vouchers. As a result, suppliers of taximeters in Victoria must also meet the requirement for the meter to be able to connect to the EFTPOS equipment provided by the approved payment processor for MPTP cards.⁵

21.3. Regulation and performance

The inquiry has identified a number of regulatory concerns affecting taximeters. It is also clear that the regulatory framework as applied to taximeters has inherent problems that are being exacerbated by the adoption of newer technologies.

As with other aspects of the taxi market, current regulation covering taximeters is complicated and overly prescriptive. Some of the shortcomings identified by the inquiry are:

- Requirements on taximeters are prescriptive in some respects but silent on important issues such as meter accuracy, reliability, failure modes and fault tolerance, robustness (voltage fluctuation, humidity and temperature) and security (falling substantially short of the international taximeter standard OIML R 21).
- Taximeters are not required to be pattern tested by their supplier. This means that a meter's ability to operate accurately and reliably under a diverse range of conditions is unknown at the time it is type-approved.
- There is no overarching requirement on the taxi operator to ensure the meter is accurate (only that it is installed, sealed and apparently working).
- The meter requirements do not accommodate more recent charges that have come about through the introduction of tollway and airport charges.
- Some requirements are unique to Victoria, which imposes a development burden on the local market and which may not be necessary.
- Meter sealers are one of the few controls around installed meter accuracy, yet there is no regulatory requirement other than that the sealer must be a 'fit and proper' person and no provision for regular audits to be conducted on meter sealers.
- Requirements are prescriptively structured around a specific technology architecture that relies upon electronic pulse-based distance recording rather than defining metering outcomes. As this technology ages, these requirements risk restricting innovation as GPS-based metering systems emerge as being suitable for installation in cabs.

21.3.1. Testing and calibration

There are no specific requirements for the regular retesting and recalibration of taximeters other than when the taximeter seal is broken. In practice, the sealing of meters is triggered by events such as new meter installations into vehicles as they are commissioned as taxis, the application of revised tariffs to existing meters and the service or replacement of faulty meters. When a meter is sealed, part of the installation process requires that it be calibrated to the vehicle, as factors such as transmission speeds, wheel and tyre sizes, and tyre pressures influence meter calculation of fares. Much of this activity occurs without regulatory oversight.

Taximeter seals used to be broken each time a fare update occurred, but current versions of meters require no seal to be broken for such purposes. As a result, a taximeter may be in service for the life of a cab without ever being subjected to a retest or recalibration. The inquiry has found that the VTD does not appear to actively audit taximeter accuracy on either a regular or ad hoc basis. However, it does audit taximeter seals from time to time.

⁴ International Organisation of Legal Metrology (2007), *Taximeters metrological and technical requirements, test procedures and test report format*, OIML R 21 Edition 2007 (E)

⁵ Cabcharge Australia Pty Ltd has held the contract for processing MPTP payments with the Victorian Government since 1999. Issues associated with this arrangement and payment processing systems are discussed in chapter 12

21.3.2. Technology issues affecting taximeters

Victoria's approach to the regulation of taximeters appears increasingly out of date, as advances in information and communications technology have added wireless, GPS and interconnection capabilities to many devices, including taximeters. These developments have implications for security, data sharing and future regulation.

Taximeter manufacturers are just starting to adopt industry standard 'tablet'⁶ based hardware for taximeter purposes. This will mean that manufacturers will no longer make the taximeter hardware, but will become software companies that develop the specialised taxi software that runs on standard tablet type hardware. This same tablet hardware is currently used for the MDT. It may not be long before these two pieces of equipment become incorporated in the same device.

While the Australian taximeter supply market is relatively concentrated, there appears to be no lack of innovation in the taximeter industry with most suppliers in the process of introducing new or revised models. In the near future, recent innovations are likely to result in the introduction of text-to-voice announcements of taxi fares, the ability to automatically apply tolls to taxi fares using GPS-based technology and – as noted above – the migration of taximeters across to industry standard tablet based hardware.

For example, the in-cab MDT from MTData provides an 'open access' interface for the connection of compatible meters from other suppliers, in addition to MTData's own taximeter. This interface enables the following features:

- Auto tolling calculation (tolls are registered by the GPS within the dispatch system and transferred via an interface to the meter for recording)
- Text-to-voice capability (tolls, extras and other meter events are announced by the dispatch system)
- Meter interlocking capability (the meter can be disabled by the dispatch system under a number of conditions including 'not logged on to the dispatch system', 'not picking up an accepted job' and so on)
- Remote upload of taxi fare, toll fares and airport charge fare tables
- Remote update of software and firmware.

Four of the five approved taximeter suppliers either have a toll ready meter or are in the process of developing such a meter using the same GPS based approach. Accommodating tolling capability in taximeters has further driven the need for remote wireless update capability. This capability is required to allow frequent toll fare updates to be rolled across the taxi fleet with zero or minimal downtime. Different suppliers have adopted different solutions to achieving the wireless connection to taximeters. These different approaches may lead to standardisation problems for the industry if this is where the industry or regulator considers taxi information systems need to go.

Another development with the potential to change the fundamentals of taximeter operation is evident in the development of GPS-based positioning as the basis for fare calculation, rather than the longstanding method of electronic pulses generated by tyre rotation.⁷ This trend is under consideration by Victorian equipment suppliers and is already deployed as an option for hire car drivers that use the Smartmove booking and dispatch system. Current Victorian regulatory arrangements are likely to struggle to cater for such an innovation, risking delaying the introduction of developments in this area.⁸

It is also clear that the current regulatory environment is under challenge from the trend towards the convergence of devices supported by cloud-based computing solutions operating over low cost wireless communications.⁹ This trend, already underway globally, is likely to see significant changes to the taxi information landscape going forward and has important implications for taximetering.

⁶ A tablet is a generic term for a device that features an open programming platform built into a touch screen based device, with the Apple iPad and equivalent devices from other suppliers being examples

⁷ See www.skymetercorp.com/cms/images/News/skymetersmartmeteringbrochure.pdf accessed 4 April 2012

⁸ Other regulators are also struggling to deal with these developments. See, for example, the recent recommendation by the taxi regulator in Cardiff refusing a GPS based taxi metering system, accessed 4 April 2012 at www.cardiff.gov.uk/objview.asp?object_id=22209

⁹ Lateral Economics (2011), 'The potential for cloud computing services in Australia', Report commissioned by Macquarie Telecom, October 2011

In the emerging 'wireless cloud' environment, issues are likely to arise where technology might be used to lock-out or lock-in particular providers. For example, such a situation could arise where a single in-cab device has evolved into a platform combining EFTPOS, taximeter and dispatch terminal functions as recently foreshadowed by Cabcharge:

...the Integrated Payment Platform will replace the existing ageing in-taxi payment engine...it allows additional applications to be downloaded – for example, meter, camera, navigation and taxi Wi-Fi applications...the meter application will automatically record both the fare and any tolls and have 'over the air' fare and toll updates...We now have an updated working prototype and are on schedule for production later in 2012.¹⁰

The implementation of Cabcharge's new Integrated Payment Platform (IPP) during 2012 is likely to have implications for many taxi operators who are required to affiliate to a network service provider (NSP) under current arrangements. As discussed in chapter 11, in the current environment each NSP mandates the installation of specific booking and dispatch computer equipment that links each taxi back to the NSP for the purpose of booking, dispatch and emergency alarm response. In practice, each taximeter must link appropriately to NSP booking and dispatch equipment, as well as Cabcharge supplied EFTPOS equipment while also providing signalling information for the taxi dome light.

Operators and taximeter suppliers have told the inquiry that it is common for NSPs to insist that any equipment wired into taxis affiliated with their network must be approved by them for the purpose of operational continuity. The inquiry has heard that taxi operators who elect to use independent installers (other than those approved by their NSP) are subject to extra fees of up to \$250.

Whilst it is yet to be implemented, the IPP may make it more difficult for taxi operators to choose taximeters from the wider market. It appears that the IPP may permit only specific taximeter, EFTPOS and other equipment to function as integral components within the new platform. The regulator may need as a matter of urgency to bring forward consideration of the need for interoperability standards and open access provisions between taximeters, EFTPOS terminals and dispatch terminals.

21.3.3. Market size

It is also evident that the Victorian market for taximeter equipment is relatively small and therefore sensitive to local regulatory requirements, especially those that impose extra 'development' costs on industry and increase barriers to competition – such as those that arise from the processing of MPTP payments.

Currently, the taximeter supply market is dominated by Australian-based manufacturers: four out of the five approved meters are made locally, with the fifth being supplied by a New Zealand firm. This is not significantly different to the situation in other states, with only a few having more or different suppliers and only one other international firm regularly supplying to the market. Internationally, there are many taximeter suppliers capable of supplying to the Victorian market, but a number of factors limit the attractiveness of the market, including the relatively small volume, low unit value and the cost burden in gaining approval in each jurisdiction.

For this reason, local requirements should aim at mirroring national or international standards where possible and, where not possible, the economic impact of such requirements should be considered when determining regulatory requirements.

Inquiry findings

- ➔ The regulatory framework for taximeters is prescriptive. This translates into cost burdens on local suppliers and also discourages innovation.
- ➔ Victoria's taximeter regulation is increasingly out of date and under challenge from technological advances. In particular, regulation lags far behind the increasing interoperability of in-cab devices.
- ➔ Where possible, Victorian requirements for taximeters should mirror national or international requirements.

21.4. The inquiry's testing of taximeters

The inquiry held exploratory discussions in relation to taximeters with the National Measurement Institute (NMI) during August 2011. NMI indicated that it had conducted some discussions with taxi regulators from Australian jurisdictions about the need to examine taxi metering instruments, although the NMI is not currently empowered to test and approve taximeter equipment in Australia.

¹⁰ Chairman's Address, Cabcharge Pty Ltd, Annual General Meeting, Wednesday, 16 November 2011, Sheraton on the Park Hotel, Sydney, accessed 3 April 2012 at www.asx.com.au/asxpdf/20120223/pdf/424jy1jmyc597c.pdf, p.4

In late 2011, the inquiry approached NMI to assist with gathering data regarding the likely accuracy of taximeters. NMI proposed a number of tests that are used in determining the suitability of instruments for trade measurement. Of the set of tests proposed, a limited subset was chosen due to time and budget constraints. The testing was performed during February and March of 2012 with the exclusion of lengthier and more expensive tests for the effect of disturbances, such as electromagnetic interference and electrostatic discharges. Taximeters were tested for accuracy using a variety of techniques including the following under different environmental conditions:

- a. Pulses per price interval method (distance rate)
- b. Last job distance method
- c. Pulse count method (distance pulses)
- d. Time per price interval method – stopwatch (time rate accuracy)
- e. Time per price interval method – automatic timing (time rate accuracy)

In parallel with the NMI preliminary pattern testing of three common taximeters, the inquiry requested that the VTD perform a rough operational field test of taximeters. The VTD arranged for a sample test of approximately 100 taximeters from a range of manufacturers across a random selection of taxis and vans from a changing population of vehicles at Melbourne Airport during February 2012.

21.4.1. Results and implications

The NMI commented that their testing had found 'sufficient variations in accuracy as to warrant further investigation and consideration',¹¹ although testing had been of a preliminary nature due to the inquiry's time constraints. Formal NMI trade measurement pattern testing of devices is extensive and rigorous and would usually include testing of other environmental factors such as electromagnetic sensitivity and electrical load testing to verify the internal integrity of the instrument.

The VTD test results recorded fares displayed on each meter during predetermined trial runs over measured distances and times. These results indicated variations across the tested population, with 12 per cent of the tested meter population showing 3 per cent or more variance between the fare displayed on the meter and the fare as accurately calculated for the test.

The results of the NMI limited pattern testing, alongside the VTD operational field tests of currently deployed taximeters, indicate that variations in taximeter accuracy require further investigation.

21.4.2. The way forward

Taximeters have been exempt from trade measurement legislation in Australia. This situation has been maintained with the recent transfer of the trade measurement functions of State and Territory governments to the Australian Government and the passage of new national measurement legislation. Generally, the responsibility for assessing meters and their accuracy has fallen to the taxi industry-specific regulators.

Taxi industry regulators are not experts in trade measurement and the inquiry has found that the regulation of taximeters in Victoria has not been sufficiently rigorous to give confidence that meters are always accurate to internationally recommended standards.¹² There would be clear benefits in the NMI taking on responsibility for taximeters and working with the jurisdictional taxi regulators in this area. This would be a significant national reform.

The NMI is currently exempt from regulating equipment used for determining the 'fare payable for use of a taxi'.¹³ However, the NMI has told the inquiry that the current OIML standards¹⁴ are about to be reviewed and that this presents a timely opportunity for those involved with taximeters in Australia to ensure that the next revision of these standards are relevant to Australian needs.

Inquiry findings

- Taxi industry regulators are not experts in trade measurement and the regulation of taximeters in Victoria has not been sufficiently rigorous to give confidence that meters are always accurate to internationally recommended standards.
- There are clear benefits in the National Measurement Institute (NMI) taking on responsibility for taximeters and working with the jurisdictional taxi regulators in this area.

Note: Technical diagrams of the interoperability of taximeters with other in-cab equipment, along with examples of the data set that could be required by the industry regulator, are provided on the inquiry's website www.taxiindustryinquiry.vic.gov.au.

11 NMI discussion with the TII in relation to taximeter test results, 29 March 2012

12 International Organisation of Legal Metrology (2007), Op. Cit.

13 Section 4(b), *Uniform Trade Measurement Law*

14 International Organisation of Legal Metrology (2007), Op. Cit.

Chapter 22.

22. A new approach to regulation and the regulator

Key messages

- A new approach is needed to restore public trust and industry confidence in the regulation of the taxi and hire car industry.
- The Government's establishment of the new regulator as an independent body and as a multi-member commission are welcome, but more needs to be done to ensure the regulator's impartiality, role clarity, accountability and effectiveness.
- The new regulator has an opportunity to establish strong and principled public engagement practices from the outset and to adopt the approaches needed to build a shared commitment to regulatory objectives and to work with industry to improve performance.
- The *Transport Integration Act 2010* (TIA) may impose onerous obligations on small specialist regulators such as the Taxi Services Commission (TSC). One way of dealing with this issue is to adjust the TIA to give special purpose agencies the option to have regard to Part 2 of the Act.
- Ongoing access to reliable information and the development of risk-based regulatory practice should be a priority for the new regulator in order to more clearly establish the best use for its limited resources against risks to regulatory objectives, and to effectively implement and evaluate reforms.
- The new regulator should have an expanded role in assessing market conditions and providing information to the industry, consumers and government.
- More robust consideration of regulatory and administrative burdens, and competition impacts, will be required in the future by both the Department of Transport (DOT) (as strategic policy maker) and the TSC (as future regulator, responsible for operational and implementation arrangements applying to the industry).

- The use of licence conditions to regulate the industry has led to undesirable outcomes. Consistent requirements imposed on licence holders should be set out in regulations and licence conditions generally be reserved for specific circumstances and individual licence holders.
- The post inquiry review of regulation to be undertaken by the DOT needs to consider how the regulation operates in practice and examine ways to make it as simple and transparent as possible. The review will need to incorporate specific changes to the regulations recommended by the inquiry as well as recommendations about how the regulation is developed and enforced. This includes, when appropriate, making all taxi and hire car regulation outcomes-based, rather than prescriptive.
- Regular statutory reviews of both the regulator and the regulatory framework should be undertaken to ensure that the objectives of the regulation are being attained and are still relevant.

As noted throughout this report, the inquiry considers the regulatory regime governing the taxi and hire car industry to be unnecessarily complex, overly prescriptive and burdensome.

The inquiry has also set out its concerns with the role, practices and approaches of the current industry regulator, the Victorian Taxi Directorate (VTD).

The inquiry considers that a more effective and better informed regulator and a better designed regulatory framework is critical to the successful implementation of the inquiry's proposed reforms and to the future viability and vibrancy of the taxi and hire car industry in Victoria.

Chapter 7 sets out the current regulatory framework covering the industry. Chapter 8 contains the inquiry's assessment of the performance of the current industry regulator, the VTD. This chapter draws on that work to examine the appropriateness of the proposed arrangements for a new industry regulator and to recommend changes to both the regulator and the regulatory environment to improve the effectiveness of regulation of the taxi and hire car industry.

The chapter sets out the legislative basis for the new regulator and examines whether the proposed governance arrangements are adequate and appropriate. It then examines aspects of the regulatory framework that need review and the importance of obtaining accurate information from the industry. Finally, the chapter describes an expanded role for the new regulator.

Outcomes-based and risk-based regulation

Outcomes-based regulation refers to regulatory policy and the instruments associated with implementing the policy. Rather than prescriptive regulation that focuses on inputs (and often involves very prescriptive specifications), outcomes-based regulation focuses on what the final result (or outcome) should be. This style of regulation provides scope for regulated entities to develop their own processes for compliance that work best in their particular circumstances. This often leads to innovative and less costly responses. Outcomes-based regulation is also more flexible and allows for changes in technology and the incorporation of productivity enhancing processes.

Risk-based regulation refers to the strategies adopted by the regulator. Rather than 'blanket' approaches to regulation, it requires the regulator to focus its attention on the areas of greatest risk.

Taken together, these approaches will mean that:

Regulators, instead of focussing on prescribing the processes or actions that firms must take, should step back and define the outcomes that they require firms to achieve. Firms and their management will then be free to find the most efficient way of achieving the outcome required.¹

Each of these components will be critical in restoring and sustaining confidence in the regulator and the regulatory framework as the industry undergoes some significant reform and reshaping.

Across all elements of the inquiry's reform package, the inquiry is aiming to:

- Reduce the regulatory burden on the industry
- Move from a highly prescriptive regulatory regime to an outcomes-based regime that gives industry more options about how to meet set outcomes and standards
- Develop an evidence-based approach to regulation, compliance and enforcement and risk-based regulatory practice by the new regulator, both of which are founded on a comprehensive, contemporary and accurate information base
- Improve the effectiveness, transparency and accountability of the regulator
- Provide consumers with much greater access to information about the industry and its performance.

The Victorian Government has signalled its clear intention that there will be a specific taxi and hire car industry regulator for the foreseeable future. Following the conclusion of the inquiry, a new industry regulator – the Taxi Services Commission (TSC) – will take over the role of industry regulator from the VTD. The TSC is established within the *Transport Integration Act 2010* (TIA) as an independent statutory authority. The inquiry endorses this important step by the Victorian Government to separate the TSC from the Department of Transport (DOT) and establish it as an independent regulatory body.

The practices of the new regulator – and the scope of its responsibilities – will need to take into account the inquiry's reform package. In addition, as well as assuming responsibility for regulation of the commercial passenger vehicle industry, the TSC should have responsibility for implementing and monitoring the inquiry's reform package.

The inquiry also sees the TSC as extending its role to look beyond day-to-day enforcement and compliance activities. In particular, the TSC will need to engage with its stakeholders to develop policies and procedures that provide the basis for considering the effects of its actions on competition within the taxi and hire car industry, the performance of the industry and the accessibility of taxi and hire car services. This broader role raises issues about the governance, structure and operation of the proposed new regulator. The inquiry notes that the Government has initially extended the TSC's powers beyond those held by the VTD; however, these powers will need further refining for the TSC to be fully effective.

22.1. Introduction

As discussed in chapter 8, the effectiveness of any regulatory scheme depends upon the successful interaction of its component parts: the content of the scheme (the relevant Acts, regulations and other rules); the governance arrangements of the regulator; how the regulator performs its role in practice; and the capabilities and resources available to the regulator.

¹ Black, J. (2007), 'Principles Based Regulation: Risks, Challenges and Opportunities', London School of Economics and Political Science, cited in Australian Privacy Law and Practice (ALRC Report 108) accessed 12 April at www.alrc.gov.au/publications/report-108

Implementing the inquiry's reform package will also require substantial changes to the current regulatory regime. The inquiry's view is that these changes can best be managed through the introduction of one piece of legislation that meets the principles of good regulatory practice and clarifies and simplifies the regulatory requirements placed on the industry.

Principles of good regulation

The principles of good regulation should be embedded in the future regulatory framework. These principles, derived from the Victorian Guide to Regulation (VGR) and set out below, are consistent with the overarching requirements of the *Transport Integration Act 2010*.

The VGR begins from the premise that a positive argument for regulation has been established. The parameters of this argument and the process taken and evidence required to arrive at this conclusion are set out in chapter 7. The VGR then lists eight principles of good regulation:

- *Effectiveness* – regulation is focused on the problem and achieves its objectives with the least possible side effects
- *Proportionality* – measures need to be proportional to the problem they address, particularly in respect of compliance or penalty frameworks
- *Flexibility* – regulation can and does change to reflect changing circumstances. VCEC notes that the 10 year sunset requirements in the *Subordinate Legislation Act 1994* (SLA) should be considered a maximum
- *Transparency* – both regulation development and enforcement should be transparent to business and the community
- *Consistent and predictable* – it should be consistent with other policies and legislation and applied so that it provides for business certainty
- *Co-operative* – not only should regulations be developed in participation with the community and business, but regulators should seek to build a co-operative compliance culture. However, this should not be taken to read that regulators should build a symbiotic relationship with the regulated entities
- *Accountable* – so that the Government and the regulator (enforcer) explains its decisions and is subject to scrutiny
- *Subject to appeal* – there needs to be transparent and robust appeal mechanisms against regulators' decisions which have a significant impact on individuals or businesses.

22.2. The new industry regulator – governance and practice

In June 2011, the Victorian Parliament passed the *Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011* (Transport Legislation Amendment Act) to give legislative force to the Taxi Industry Inquiry and establish and empower a new industry regulator, the TSC. As an interim measure during the inquiry phase, the Act transferred responsibility for taxi regulation from the Director of Public Transport to the Secretary of the DOT. The VTD continues to exercise this responsibility under delegation from the Secretary.

Once the inquiry is completed, provisions in the Act transferring regulatory responsibility for taxis and other commercial passenger vehicles from the VTD to the TSC will be activated automatically on 1 July 2013 (unless triggered to commence earlier by proclamation).²

The Act amends the *Transport Integration Act 2010* to give the TSC a governance framework – including objectives, functions and powers – during its inquiry phase and when it assumes its role as the industry regulator. The object and functions of the TSC during its inquiry phase are discussed in chapter 1. The object and functions of the TSC during its ongoing regulatory phase are discussed in this chapter.

As noted in chapter 8, how a regulator is directed, controlled, resourced and held to account will influence the overall effectiveness of regulation. The inquiry has applied the same conceptual framework to considering the governance of the new industry regulator as it has applied to assessing the performance of the current regulator. This framework is set out in the Victorian Government's *Improving Governance of Regulators: Principles and Guidelines* and identifies six principles for good governance:

- Clarity of the regulator's role
- An appropriate degree of independence
- Decision-making and the governing body's structure
- Accountability and transparency
- Engagement with regulated entities and the public
- Funding sources.

² Section 2 *Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011*

22.2.1. Role clarity

Role clarity is essential for a regulator to understand and fulfill its role effectively, and the most transparent and publicly accessible way to do this is to specify the regulator's objectives, functions and powers in legislation. As reported in chapter 8, the VTD has suffered from a lack of clarity about its role and from having no explicit statutory regulatory objectives.

Objectives of the TSC

When the TSC moves into its regulatory phase, a new section of the *Transport Integration Act 2010* will come into force:

115E Object of Taxi Services Commission

1. The primary object of the Commission is to regulate the commercial passenger vehicle industry as part of the public transport system in a manner that is consistent with the vision statement and the transport system objectives.
2. Without limiting the generality of subsection (1), the primary object includes the following –
 - a. to pursue and promote major and enduring improvements in the provision of services in the commercial passenger vehicle industry;
 - b. to regulate the commercial passenger vehicle industry in a way that –
 - i. facilitates competition and innovation in the industry;
 - ii. increases the use of public transport and minimises the adverse environmental impacts of the commercial passenger vehicle industry;
 - iii. contributes to social wellbeing by providing access to opportunities and supporting liveable communities;
 - iv. promotes economic prosperity through the efficient and reliable movement of persons;
 - v. in collaboration with the following entities, improves the safety of drivers and passengers of commercial passenger vehicles –
 - A. the Secretary;
 - B. the Secretary to the Department of Justice;
 - C. the Chief Commissioner of Police;
 - D. the Roads Corporation;
 - E. the Director of Public Transport;
 - F. municipal councils;
 - c. to promote public confidence in the safety of the commercial passenger vehicle industry.³

³ Section 108 *Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011*, which will add a new section 115E to the *Transport Integration Act 2010*

The inquiry notes that the objectives and functions of the TSC were drafted well ahead of the inquiry's draft report and could not take into account the inquiry's broader reform directions or specific recommendations for regulatory changes. The inquiry's view is that these objectives and functions could usefully be reviewed and re-drafted to better fit the inquiry's reform proposals.

High level objective

The inquiry considers that, unlike its predecessor, the TSC must have an objective that provides role clarity and a strong sense of purpose. However, rather than a prescriptive list of objectives, a more concise high level object for the TSC is appropriate. Such an object could be constructed along similar lines to those applied to the Essential Services Commission (ESC) and the Australian Competition and Consumer Commission (ACCC)⁴ as follows:

In carrying out its functions, the TSC's objectives are to promote the provision of efficient, safe, accessible and competitive taxi and hire car services.⁵

Such a broad, high level object will allow the regulator to pursue a wide, but directed, range of outcomes. Further guidance for the regulator could be contained in either supporting sections of the legislation or in supporting documentation, such as the Minister's second reading speech when introducing the legislation into Parliament. It is important not to overly prescribe these objectives as they can constrain the regulator from responding appropriately to unforeseen circumstances.

The inquiry notes that any new legislative provisions affecting the TSC as a result of the inquiry's reforms will need to be consistent with the *Transport Integration Act 2010*. In making its recommendations for reform, the inquiry has considered the requirements of the TIA. The TIA's broader vision for transport integration should be considered an important element in regulating and reforming the taxi and hire car industry.

⁴ The *Essential Services Commission Act 2001* defines the objective of the ESC as being "to promote the long term interests of Victorian consumers" (s8). The overarching objective of the *Competition and Consumer Law Act 2010* (C'th) is to "enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection" (s2)

⁵ Efficiency is to be interpreted here as including dynamic elements associated with innovation and also effectiveness in terms of achieving outcomes

The centrepiece of the TIA is the high level policy framework in Part 2. The core of the policy framework draws on the general principles of sustainability as applied to the transport sector. In essence, the TIA requires transport decision-makers to have regard to or to think about these best practice considerations before they act. Agencies are advised to document this thinking process whenever they can, particularly in high profile or high risk cases.

However, requiring specialist small regulators, like the TSC, to have regard to each of the matters in Part 2 of the TIA may be too onerous. The current requirement could, for example, require such an agency to embark upon an unnecessarily broad examination of transport system policy and operational matters and on relatively confined issues relating to taxis or other commercial passenger vehicles. In some cases, this type of requirement could take the agency well beyond its true statutory purpose and have undesirable resource and efficiency impacts.

One way of dealing with this issue is to adjust the TIA to give special purpose agencies the option to have regard to Part 2 of the Act.

Regular review of regulator

Good public policy suggests that independent review of the regulatory regime is appropriate to determine whether the objectives of the regime are being achieved and are still relevant, and whether the regime is effective or needs to be amended to achieve the objectives or to insert new objectives. It is critical for a regulator to continuously monitor and evaluate its own performance, but independent reviews – carried out transparently and in consultation with affected parties – are equally important in maintaining the relevance and focus of regulatory effort.

Inquiry findings

- ➔ The object of the TSC should be concise and high level, giving the regulator the scope and flexibility to carry out a wide range of tasks.
- ➔ Requiring a specialist regulator such as the TSC to have regard to each of the matters in Part 2 of the TIA may be too onerous.
- ➔ Regular statutory reviews (every five years in the first instance) of both the regulator and the regulatory framework will ensure that the objectives of the regulation are being attained and are still relevant. Such reviews are most effective if carried out in an open and transparent manner.

Functions of the TSC

The second element of role clarity is around the functions of the regulator. These functions need to be specified in the relevant legislation and, where there are competing or inconsistent functions allocated to the TSC, consideration needs to be given to addressing these inconsistencies.

A number of functions are proposed for the TSC once new section 115F of the TIA is activated:

115F Function of Taxi Services Commission

1. The functions of the Commission are –
 - a. to develop and implement policies, strategies and performance measures –
 - i. to improve the safety and security of the commercial passenger vehicle industry;
 - ii. to promote competition and innovation in the commercial passenger vehicle industry;
 - iii. to minimise any adverse environmental effects from the commercial passenger vehicle industry;
 - iv. for the operation of commercial passenger vehicles;
 - b. to provide licensing and accreditation services for the commercial passenger vehicle industry and related matters;
 - c. to assist with monitoring and reporting to the Minister on whether the commercial passenger vehicle industry meets Government, contractual and community expectations and performance measures;
 - d. to provide, or arrange for the provision and dissemination of, information to Victorians about the commercial passenger vehicle industry;
 - e. to advise the Secretary in order to assist the Secretary in developing strategic policy and legislation in relation to the commercial passenger vehicle industry;
 - f. to perform any other functions or duties conferred or imposed on the Commission by or under this Act or any other Act.
2. The function conferred on the Commission by subsection (1)(e) does not include a function to develop strategic policy and legislation in relation to the commercial passenger vehicle industry.

3. In performing the functions conferred on the Commission, the Commission must –
 - a. collaborate and cooperate with the Secretary, the Secretary to the Department of Justice, the Chief Commissioner of Police, the Roads Corporation, the Director of Public Transport and municipal councils; and
 - b. where relevant, engage with stakeholders so as to ensure better outcomes for all Victorians; and
 - c. conduct research and collect information relating to the performance of the functions and operation of the commercial passenger vehicle industry so as to enable the Commission to meet the primary object of the Commission; and
 - d. efficiently deal with, or make arrangements for dealing with, any complaints relating to the performance of its functions.⁶

Here again, the inquiry observes that this represents a significant improvement on the current situation where the VTD is not recognised in transport legislation and, as such, has no explicit statutory functions.⁷ The inquiry supports these proposed functions, while noting the following concerns and taking the view that this list of functions will need to be reviewed and refined following the Government's response to the inquiry's final report.

Operational powers to exercise functions

There are no explicit powers associated with the exercise of many of these functions.⁸ How the new regulator considers its operational requirements will depend, in part, upon the nature and content of the regulatory framework under which it operates.

While legislation (or other documentation) may offer guidance to the regulator on how to exercise its functions, the operational detail of its administration should be for it to decide. However, some overarching criteria should be provided. For example, the regulator should be directed to develop a risk management strategy that leads it to spend most of its time, resources and effort in those areas where issues are most likely to arise – in other words, it should apply risk-based regulation. This could be made explicit in legislation in a way that is similar to the Australian Consumer Law:

The objective of the new national consumer policy framework is to improve consumer wellbeing through consumer empowerment and protection, to foster effective competition and to enable the confident participation of consumers in markets in which both consumers and suppliers trade fairly.

This objective is supported by six operational objectives ... [including]

6. *to promote proportionate, risk-based enforcement.*⁹

In practice, a risk-based approach will better enable the regulator to organise its regulatory practice in more efficient, effective and outcomes-focused ways. For example, this could result in a system where the likelihood of an industry participant being subject to a random audit decreases as the number of satisfactory compliance reports (or audits) of that particular entity rises. An outcomes-based regulatory framework will also require the TSC to have the power to make codes and issue guidelines, allowing it to provide guidance to the industry on what standards are required in key areas.

The compliance options available to the regulator – and the power to use these options – will also be important. These should allow the regulator to be effective and flexible in its compliance role.

There should also be a clear process for changing the legislation where the regulator can demonstrate that it needs different powers to exercise its functions effectively (such as raising the issue in the first instance with the Secretary of the DOT).

Inquiry findings

- ➔ The TSC should be provided in legislation with the powers to undertake functions such as monitoring compliance with rules, regulations and codes, and taking enforcement action. The TSC should have the power to take legal action and be resourced appropriately for this function.
- ➔ The TSC should have specific power to make codes and issue guidelines in an outcomes-based regulatory environment.

⁶ Section 109 *Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011*, which will add a new section 115F to the *Transport Integration Act 2010*

⁷ See chapter 8

⁸ The powers of the TSC will be contained in new section 115G of the TIA

⁹ COAG (2009). Intergovernmental Agreement for the Australian Consumer Law, pp.3-4, accessed 10 April 2012 at www.consumerlaw.gov.au/content/the_acl/downloads/acl_iga.pdf mer lawmetnal

Policy formulation

The inquiry considers that the development and promulgation of policy in relation to the taxi and hire car industry is rightly the role of Victorian Government Ministers and their departments, as envisaged by proposed new section 115F of the TIA.

The inquiry's view is that it should be made clear that the TSC is not the body responsible for broad policy development.

Ministers and departments should consult with the regulator, along with other stakeholders, in the policy process. Likewise, it should be incumbent upon the regulator to bring issues of emerging policy importance to the attention of the responsible Ministers and departments. Examples of this relationship are established for other regulators, such as s156(2) of the *Equal Opportunity Act 2010* and s173(1)(c) of the TIA.

While not responsible for strategic policy development, the TSC will need to develop operational policies about how it tackles its regulatory functions. It will also need to develop specific policies to implement the inquiry's reforms. These should be the domain of the regulator. However, it should be noted that revisions to the reach of the *Subordinate Legislation Act 1994* (SLA) will extend at times to the processes and operational policies of regulators. This means that while the TSC is responsible for the development of operational policies and processes, they may be subject to scrutiny through the SLA.

Inquiry finding

- In any revision of the TSC's proposed objectives, it should be made clear that the TSC is not the body responsible for broad taxi and hire car policy development.

Taking legal action

As noted in chapter 8, there have been occasions where the VTD and the DOT have had differing views on taking legal action. The VTD's reliance upon the Department to provide resources to support legal action has further muddled the waters. An independent regulator should not be put in the position of having to rely upon another source of funds or approval to commence legal action as this effectively undermines its independence.

Implementing the Government's response to the inquiry

It is inevitable that the TSC will have a key role in the implementation and monitoring of the Government's response to the inquiry's proposed reforms. This role needs to be explicitly recognised.

As required by its Terms of Reference, the inquiry intends to provide details relating to transition in its final report.

This particular aspect of the regulator's functions should be subject to some special reporting requirements, such as annual reporting to the Victorian Parliament. These reports should include progress towards interim and other goals, as well as reports on outcomes. These parameters should be agreed in advance by the Government. This will ensure accountability for implementing the reforms and monitoring their impact. However, the regulator should also be given latitude to monitor and adjust the implementation plan as necessary in light of experience.

Inquiry finding

- The TSC is an appropriate entity to be given responsibility for implementing the Government's response to the inquiry's proposed reforms. An annual report to the Victorian Parliament on implementation progress will assist in ensuring accountability for the progress of reform.

Other functions

The inquiry's view is that a number of other functions could add to the TSC's effectiveness and should be included in s115F of the TIA:

- *An ongoing inquiry function* – The TSC may need to have the power to conduct investigations and similar inquiries around some specific aspects of taxi services regulation. It may also be appropriate for the Minister to have the power to direct the regulator to undertake certain inquiries. These inquiry or investigation powers should not be overly prescriptive and should not extend to self-examination; they should focus on the TSC's objectives and be a means for the regulator to understand and respond to new conditions, evidence and research.

- *Industry complaints functions* – The inquiry's proposed model for complaints handling is that networks and individual permit holders are the first 'line of response' to consumer complaints, with the TSC overseeing, monitoring and reporting on the industry's complaints management performance against minimum service standards. If a complaint cannot be resolved at the network or permit holder level, the TSC can investigate the matter and take disciplinary action if appropriate. Specific functions and powers should be allocated to the TSC to enable it to undertake this role.
- An alternative approach considered by the inquiry was to extend the role of the Public Transport Ombudsman to cover the taxi and hire car industries. The inquiry has not ruled this option out as a long-term possibility, but considers it not to be necessary at this time given the extensive reforms being proposed to the structure and regulation of the industry and the already evident improvements made in relation to complaints handling by the regulator.
- *A broader research function* – A research function is crucial to a modern industry regulator overseeing an outcomes-focussed regime. The regulator must not only understand the industry it is regulating, but also the demands and needs of consumers. The TSC should also be able to conduct research and undertake studies on matters that are referred to it by the Minister.

Inquiry findings

- ➔ The TSC should be empowered to undertake any inquiries necessary to enhance and pursue its objectives and as directed by the Minister.
- ➔ While responsibility for dealing with complaints will rest in the first instance with the service provider, the TSC should have specific functions in relation to complaints monitoring and investigation.
- ➔ A broad research function will allow the regulator to better understand the industry and how it functions, as well as the interests of consumers.

The scope of regulation

A third aspect to role clarity relates to the scope of the regulatory framework; in particular, how price and other economic regulation will be addressed. The inquiry's view is that the technical aspects of regulation (such as safety and quality) and the economic aspects of regulation (such as fare setting) should not be the responsibility of one regulator.

For example, in the first three years of the reform program, the inquiry proposes that the ESC determine taxi fares, with involvement through cross-membership of the TSC for this purpose.

The scope of the regulatory framework may also change due to national reforms in a number of regulatory areas associated with the taxi and hire car industry. Reform opportunities may also emerge in conjunction with other jurisdictions, industries or bodies that could reduce the regulatory burden, improve compliance or enhance customer service. These activities may lead to national uniform legislation in some areas or to legislative and/or procedural harmonisation between two or more jurisdictions.

To make the most of these opportunities, the TSC may need an explicit function to engage in broader reform efforts and an explicit power to enter into understandings and/or formal agreements with other transport regulators and authorities in Victoria (such as VicRoads, Consumer Affairs Victoria and the Public Transport Development Authority), as well as authorities in other States and Territories.

Inquiry finding

- ➔ The TSC will require the power to engage with other regulators and enter into understandings and/or formal agreements with them.

22.2.2. Degree of independence

As observed in chapter 8, the integrity of a regulator can be protected through its external governance arrangements. In chapter 8, the inquiry described a continuum of independence ranging from a regulator that is an administrative unit of a government department with only delegated functions ('least independent') to one that is a statutory authority with legislated decision-making powers, transparent funding arrangements and explicit restrictions on Ministerial direction ('most independent'). The inquiry noted that the VTD sits at the 'least independent' end of this continuum, a position that has contributed to some of the difficulties it faces.

There is no single degree of independence that is appropriate for all regulators. Drawing on guidelines issued by the Department of Premier and Cabinet,¹⁰ Table 22.1 identifies the factors relevant to an assessment of the appropriate degree of independence for a taxi industry regulator.

¹⁰ Department of Premier and Cabinet (DPC) (2010), *Improving the Governance of Regulators: Principles and Guidelines*, Victorian Government, Melbourne, pp.10-11

Table 22.1 Assessment of approximate degree of independence for taxi industry regulation

'Independence factor'	Degree of independence indicated	Applicability in taxi regulation
Credible commitments over the long term	Arm's length statutory authority A more independent regulator sends an important message to regulated entities about the commitment of government to objective and transparent administration and enforcement of regulation.	Applicable Potentially long term commercial interests involved in the provision of services.
Stability and predictability of decision-making	Arm's length statutory authority Greater distance from day-to-day political influences is more likely to result in consistent and predictable regulatory decision-making.	Applicable Potentially long term commercial interests involved in the provision of services.
Addressing potential conflicts of interest	Arm's length statutory authority Regulatory decisions that have significant flow-on impacts for government, for example on budgets or service delivery, or that must be seen to be applied impartially to both government and non-government entities.	Not applicable Government is not a service provider. No significant conflict of interest to address through governance arrangements.
Development of regulatory expertise	Arm's length statutory authority A need for specialist regulator expertise, which is best maintained in a specialist unit with quarantined resources.	Partly applicable Competition and fare regulation issues are complex and have technical aspects. Service quality and safety regulation less so.
Function closely integrated to departmental functions	Departmental unit The regulatory function must be closely integrated to departmental activity which retains the locus of specialist knowledge and expertise within government.	Not applicable Department's transport policy function does not require close (organisational) integration with regulation, although there needs to be consultation between department and regulator.
Changing regulatory environment	Departmental unit The regulated environment is subject to rapid change, with policy still being developed. Regulatory decisions cannot be readily separated from policy choices that are appropriately made under the direct control of the Minister.	Not applicable Taxi and hire car services are not particularly dynamic in nature. Periodic reviews of the regulatory framework are sufficient to enable any consequences of environment changes to be reflected in regulatory decisions.
Minor function	Departmental unit The regulatory function is incidental to non-regulatory departmental activities, such as service delivery. Creating a separate entity to perform the function, or assigning it to an existing independent regulator, is not justifiable.	Not applicable Taxi regulation is not incidental to other service delivery by the department nor is it a minor function.

The inquiry's 'on balance' judgement is that a regulator that is more, rather than less, independent is appropriate for the purpose of regulating the taxi industry and that the current governance arrangements for the VTD lack the appropriate degree of independence. One strong argument for establishing the taxi industry regulator as an independent body is that in exercising its functions, it has the potential to have a significant impact on particular interests – therefore, it is important for the regulator to be seen as independent to bolster public confidence in its decision-making.

Accordingly, a regulator that is established by statute with explicit objectives, functions and powers and that is organisationally separate from the DOT is the inquiry's preferred basic model. In reaching this conclusion, the inquiry emphasises that a more independent taxi industry regulator should be accountable to government for its decisions and overall performance. Strong accountability mechanisms are required to ensure that the regulator is achieving its legislative objectives and is exercising its powers with integrity and efficiency. Independence and accountability can, and should, be mutually reinforcing. This is discussed further in section 22.2.4.

Essentially, the Victorian Government has adopted this basic model in its move to establish a more independent governance structure for the TSC than is currently provided for the VTD. The inquiry welcomes this move while noting that founding the regulator in statute is insufficient in itself to ensure impartiality: adequate funding, appropriate staffing, operational clarity and transparent methods of appointment to senior positions are all critical factors in ensuring the independence of the regulator.

The inquiry considers that a number of features should be incorporated within the structure and operations of the new regulator to ensure its impartiality and accountability:

- While the TSC will be an independent regulator, there should be the option for the Minister to direct the TSC. However, unlike the current situation, there should be an explicit power given to the Minister to make such direction, with any direction required to be documented and published.
- The relationship between the TSC and the DOT should be defined clearly through formal – and publicly available – arrangements such as a public framework agreement.¹¹ These arrangements should be constructed in such a way as to protect the regulator's independence.
- The TSC should have the power to recruit its own staff. In particular, the TSC will need to employ its own legal staff in order to ensure both the perception and reality of its independence and autonomy in taking enforcement action.
- Where it is less costly for the TSC to share ancillary services, such as audit, IT and so on, service level agreements should ensure that protocols and practices are in place to ensure that the TSC's independence is not compromised.

Generally, the TSC should be expected to act in accordance with stated government policy preferences and should take into consideration specific government policy in formulating its own priorities and processes. The Government may also issue policy statements or regulatory orders to provide high level direction to the regulator.

Appointment of Commissioners

The inquiry is of the view that a diverse mix of high level skills will be required across all Commissioners, such as economics, regulation, competition policy, consumer advocacy, business and legal skills.

The regulator must also feel free to make decisions without any undue pressure or influence. In particular, Commissioners must be able to carry out their responsibilities in the clear understanding that there are limited and specified reasons for terminating their appointments.

As currently envisaged under s115L of the TIA, the Minister can summarily remove a TSC Commissioner from office. Other independent regulators in Victoria do not face this prospect. For example, in the case of the ESC and the Victorian Commission for Gambling and Liquor Regulation, Commissioners can only be removed by Government-In-Council or Parliament respectively.¹² This provides a level of distance from political inference that can work to the benefit of both regulator and government.

The appointment process for Commissioners must also ensure that independence is not compromised. There are several examples of how this can be achieved and the principles outlined in *Improving Governance of Regulators* are also applicable. The performance of the regulator and its independent office holders can be addressed through limited tenure of the positions (such as three or five year terms) and the use of a performance management system for the appointed office holders. These – and other – senior roles should have an appropriate mix of skills and experience to ensure the TSC is a well-functioning regulator.

¹¹ A public framework agreement could cover matters such as the TSC's budget, information sharing protocols, provision of basic services, communication and consultation processes, and provision of independent legal advice. The precise nature of the agreement will depend upon how the regulator is established and whether the secretariat supporting the regulator is sourced from departmental staff or not. In this case, the inquiry suggests that staff should be recruited directly by the regulator; however, there may be some departmental staff serving the secretariat during the transition period. Additionally, even if the regulator recruits its own staff, there may be efficiencies in the regulator having access to departmental services and processes for staff

¹² Ss 19 and 22 of the ESC Act; ss19(2) and 19(3) of the *Victorian Commission for Gambling and Liquor Regulation Act 2011*

Inquiry findings

- ➔ The nature of taxi and hire car regulation is such that the best governance structure entails a reasonable degree of statutory independence.
- ➔ The proposals for a more independent governance arrangement for the TSC are welcome, but more needs to be done to ensure the TSC's independence and accountability.
- ➔ Appointments to the TSC as Commissioners should be for a fixed term, with clear conditions on how these appointments can be terminated, such as requiring the Minister to take the proposition before Parliament. The legislation should stipulate that certain skills and experience are pre-requisites for appointment as a Commissioner.

22.2.3. Decision-making and governing body structure

As with the degree of independence, there is no single governing body structure that is necessarily appropriate for all regulators. *Improving Governance of Regulators* proposes three governance models for an independent regulator:

- Governance board model where the board takes a strategic decision-making role and regulatory decision-making functions are largely delegated to a Chief Executive Officer staff
- Commission model where the board itself makes most of the regulatory decisions
- Single member regulator model.

Drawing again on *Improving the Governance of Regulators*, Table 22.2 identifies the indicators for a multi-member governance body and the inquiry's assessment of their relevance to taxi regulation.

Table 22.2 Assessment of decision-making and associated governance structure for taxi industry regulation

Indicators of multi-member decision-making body value (in approximate order of importance)	Rating for taxi industry regulation Higher indicates a stronger case for multi-member decision-making body →		
	Low	Moderate	High
Industry scope of the regulation administered, and functional scope of the regulator, including the volume of decisions required to be made.	Industry-specific regulator, but with a wide functional scope. A high volume of decisions, substantial proportion of low-level decisions.		
Potential commercial/safety/social/environmental consequences of regulatory decisions		Risk to public safety and commercial consequences for regulated entities.	
High degree of judgement required due to wide scope or particular complexity of issues covered, or where regulation is principles-based or particularly complex.	Regulation is quite prescriptive, but some issues (such as competition consequences of regulation) are complex. This is likely to become more so as regulation becomes outcomes-focused.		
Degree of strategic guidance and oversight of delegated regulatory decisions required to achieve regulatory objectives.		Taxi regulation has lacked strategic direction and focus. A multi-member body would facilitate more strategic decision-making that is required.	
Difficulty and importance of maintaining regulatory consistency over time.			Long term commercial interests affected by regulatory decisions.
Importance of decision-making independence.			Important for consumer and industry confidence for the regulator to be and to be perceived as independent.

Source: DPC (2010)

To date, the VTD has operated under the single member regulator model. As discussed in chapter 8, this model is not the best fit with taxi regulation and has evolved over time into a multi-layered, cumbersome and largely opaque decision-making structure, with no clear responsibility for strategic guidance and direction. The Government's proposal to establish the new regulator as a multi-member commission is a welcome effort to move towards a more appropriate and transparent governance structure.

At present, during the inquiry phase, the TSC is structured along the lines of the commission model, with two Commissioners overseeing the inquiry. Once the TSC moves into its second phase, it will comprise a Chairperson and up to two additional Commissioners as the Minister considers necessary for the regulator to perform its functions.

During its early operational phase, the regulator will have extensive work to do in establishing operating parameters, compliance and enforcement policies, industry engagement approaches and other operating procedures. While a single Commissioner may be sufficient over the longer term, in this start-up phase it may be appropriate to have a full time Chairperson and one or two part-time Commissioners. Consideration could also be given to providing for acting Commissioners to assist with the workload during this period. The Commissioners should also have the power to delegate some responsibilities to the Chief Executive Officer (CEO) to enable a more efficient distribution of work and speedier decision-making.

Regulatory capture and governing body structure

While some of the deficiencies with the current VTD structure could be addressed within a single member model through improvements to the regulatory scheme, there is a further consideration in favour of a multi-member structure that is not addressed in Table 22.2: the potential for 'regulatory capture'.

Generally, concerns over regulatory capture are heightened when a regulator is industry-specific. In these instances, a multi-member decision-making body is more likely to mitigate the risk of regulatory capture, both real and perceived.

However, the 'downside' to creating a body with a number of Commissioners is that it may give an unbalanced view of the importance or power of the body. One option to address this is to have a clear delineation between the Commissioner/s and the CEO, so that

each acts as a check or balance in ensuring the overall independence of the regulator. This can occur through the CEO not being a member of the Commission and being given full responsibility for the administration and management of the regulator.

The inquiry's view is that the CEO should be appointed by the Minister on the recommendation of the lead Commissioner.

Some respondents to the inquiry have called for various parties to be 'represented' in some decision-making capacity within the regulator. The inquiry does not consider this appropriate. Just as the impartiality of the regulator is supported by creating distance between it and government, so too is it important to have distance between the regulator and other affected parties. The inquiry's view is that some of these calls stem from dissatisfaction with the VTD's engagement with various elements of the industry; however, there are other mechanisms available to address these concerns and ensure that all industry viewpoints and interests are considered by the regulator.

Inquiry findings

- ➔ The TSC's regulatory remit indicates that a commission model is appropriate. A single Commissioner may be sufficient in the longer term; however, in the start-up phase, a fulltime Chairperson and at least one other part time Commissioner may be necessary.
- ➔ As the TSC will have a particularly heavy workload in the initial years of its existence, consideration should be given to providing for acting Commissioners to assist with the workload.
- ➔ The Commissioners will need a power to delegate.
- ➔ Appointment of the CEO should be on the recommendation of the lead Commissioner.
- ➔ The TSC is not a representative body. In order to maintain a distance between the regulator and affected parties, members of the TSC should not hold positions in the industry.
- ➔ The TSC should encompass a broad range of skills and experience, including economics, competition, regulation and legal skills.

22.2.4. Accountability and transparency

Accountability and transparency are essential for sustaining public confidence in a regulator and for ensuring that a regulator's performance is subject to scrutiny. As noted in chapter 8, the current regulator is not subject to any specific legislative requirements relating to accountability or transparency other than the general application of these principles by the DOT. Predictably, this means that – as a general rule – the VTD has not adopted any behaviour or processes to promote greater accountability and transparency.

The inquiry considers that the new regulator should be required to act within a transparent and accountable framework that includes the following:

- As an independent regulator, the TSC should be required to report annually to Parliament on its activities against agreed outcomes and indicators. In developing these, *Improving Governance of Regulators* envisages that the Minister will issue a Statement of Expectations to which the TSC will respond through its corporate plan. All these documents should be publicly available.
- Rules, policies and guidelines for administering regulations should be as transparent as possible. In developing these, the TSC should consult with stakeholders, in which case these instruments should not be subject to appeal.
- Appropriate internal measures and process should be developed to address probity issues and conflicts of interest, as well as complaints against the regulator.
- There should be clarity around expectations of timely decision-making by the TSC – an aspect of the VTD's operations that has attracted criticism. Rather than subject certain TSC decisions to time limits, the inquiry's preferred approach is for the TSC to be required to report against performance standards on timeliness in its annual report. The inquiry considers that setting arbitrary timelines and forcing the regulator to comply with them may mean some decisions are made with greater haste than is desirable. Reporting on performance standards reduces the likelihood of this, but keeps the regulator accountable. More importantly, it removes the incentive for regulated entities to force the regulator's hand by employing delaying tactics.

Inquiry findings

- ➔ The TSC should report to Parliament annually on its activities against agreed outcomes and indicators.
- ➔ The rules, policies and guidelines for administering regulations should be as transparent as possible. Given that the processes for developing these instruments in the new regulatory environment will be open and transparent and subject to scrutiny, they should not be subject to appeal.

Review and appeal of decisions

Accessible, transparent mechanisms should be in place to allow a review of regulatory decisions that have significant implications for individuals and entities. The review provisions should apply natural justice.

Delegated decisions should be dealt with in the first instance by allowing appeal to the regulator – in this instance, to the TSC. The inquiry's view is that decisions taken by the regulator should be appealable in most circumstances and welcomes comments on any circumstances where they should not be appealable. However, there should be some limits placed on the use of appeal as a nuisance or delaying tactic or where used to obstruct the proper regulation of the market.¹³

Under the proposed new regulatory framework, where the industry is responsible for more of its own performance and the regulator is involved only in matters that are either more serious breaches of requirements or reasonably its responsibility, there should be less cause for appealing the TSC's decisions. In addition, changes to how the regulations are framed, the instruments for their administration and the way in which they are developed – through highly consultative and transparent means – should all act to minimise the number of matters brought before the TSC on appeal.

The inquiry's preliminary view is that the regulator should have greater discretion in making decisions and that the range of regulatory decisions that are appealable through the Victorian Civil and Administrative Tribunal (VCAT) should be limited. Robust internal review processes should be sufficient to deal with most issues, with further appeals allowed to the Supreme Court, but only as judicial reviews.

¹³ The Victorian Commission for Gambling and Liquor Regulation, established earlier this year, has altered the appeals process for liquor licensing. Instead of using VCAT, which often produced inconsistent and therefore uncertain regulatory outcomes, aggrieved parties have the option of having their decisions considered by the full Commission and then, if still dissatisfied, appealing to the Supreme Court on the grounds of a question of law

This revised process for appeal depends upon the regulatory framework being an open and transparent one, with ample consultation and sufficient checks and balances (including regulation being subject to the RIS process).

The inquiry is seeking further comment of these matters before making final recommendations about the nature and content of allowable appeals, the appropriate jurisdiction for hearing them and any other prescriptions around the appeals process.

Inquiry findings

- ➔ Transparent and accessible process for reviewing and appealing the TSC's decisions should be established.
- ➔ A combination of a more open and consultative regulatory framework, greater discretion given to the TSC in making decisions and an initial avenue of appeal on delegated decision to the full TSC could reduce the number of appeals to VCAT and the Supreme Court.

22.2.5. Engagement

Effective engagement with the regulator's stakeholders is important to inform the regulator about the industry, to gain a better understanding of the impact of regulatory decisions, to build a shared commitment to regulatory objectives and to work with the sector to improve performance outcomes – this latter point is especially important for a regulator that implements risk-based regulation and regulatory practice. Again, this is an area where the current regulator has not always performed well.

The TSC has the opportunity to start afresh and establish strong engagement processes and protocols from the outset, including:

- The TSC should develop a strategic approach to engaging more widely with the consumers of taxi services. There appear to be no taxi-specific consumer groups; rather, the Victorian Council of Social Services (VCOSS) has stepped into the gap as the lead organisation to date in responding to the inquiry on behalf of taxi users with a disability and the Victorian community more generally. Noting these difficulties, there may be some benefit in the Government facilitating the organisation of several groups to advise the TSC on a regular basis. There are precedents for this in other regulatory spheres, including some bodies formed under the Consumer

Affairs 'umbrella' and some formed to advise the ESC. Other States have established general advisory bodies that represent the full range of industry participants: government, taxi companies, drivers, unions and consumer groups.

- The regulator should avoid processes that favour one set of stakeholders over others but, equally, it should not preclude various regulated parties or consumers from directly engaging with the regulator.
- The TSC should adopt a new approach to industry engagement that aims to build trust and confidence in the regulator's decisions, gather intelligence about where regulatory changes and red tape can be reduced, and allow industry input into broader transport planning initiatives. Industry-related advisory groups may be a particularly useful conduit for communications and intelligence gathering in an industry where many participants lack strong representation – most notably taxi drivers, smaller taxi operators and hire car operators.
- The TSC should have a strong presence in both metropolitan Melbourne and regional Victoria. Any engagement strategy developed by the TSC should include a clear and distinct focus on the issues of concern to country taxi and hire car users and industry participants.
- When the TSC is making new rules, policies or guidelines, or amending existing ones, it should be required to undertake a specific consultation process and to consider the costs and benefits of its preferred approach. In some instances, the TSC will be required to undertake consultation under the *Subordinate Legislation Act* as part of preparing a Regulatory Impact Statement (RIS). Where not formally required to consult, the TSC should have in place clear processes for when and how consultation should occur.
- Legislation could be enacted to require the TSC to adopt and publish a Charter of Consultation and Regulatory Practice similar to the requirement placed on the ESC by the ESC Act. Under section 14 of that Act, the Charter must include 'guidelines relating to processes for making determinations and other regulatory decisions and conducting inquiries'. The TSC's Charter could extend further to encompass guidelines and principles for engagement and consultation.

Numerous community and stakeholder engagement plans and models are available for the TSC to draw upon in developing a Charter of Consultation and/or consultation processes. The main requirements are that the TSC is open, transparent and even-handed in its engagement.

IAP2 Core Values for Public Participation

The inquiry considers that the principles and practices outlined by the IAP2 (International Association for Public Participation Australia) would form a good basis for building the TSC's consultation processes and practices.

An international leader in public participation, IAP2 has developed the 'IAP2 Core Values for Public Participation'¹⁴ for use in the development and implementation of public participation processes:

1. The public should have a say in decisions about actions that could affect their lives.
2. Public participation includes the promise that the public's contribution will influence the decision.
3. Public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers.
4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
5. Public participation seeks input from participants in designing how they participate.
6. Public participation provides participants with the information they need to participate in a meaningful way.
7. Public participation communicates to participants how their input affected the decision.

IAP2's Public Participation Spectrum¹⁵ is designed to assist with the selection of the level of participation that defines the public's role. The Spectrum shows that differing levels of participation are legitimate depending upon the goals, time frames, resources and levels of concern with the decision to be made. However, and most importantly, the Spectrum sets out the promise being made to the public at each participation level.

IAP2's values highlight the reasons why people engage and influences how they engage by communicating a person's right to contribute to decisions that affect them; providing avenues and appropriate information to enable effective participation; and giving information back to participants about how their input contributed to decisions.

Inquiry findings

- The TSC has an opportunity to establish strong, fair and principled engagement and consultation practices from the outset.
- Processes such as the IAP2 values offer a sound basis for a good engagement practice.

22.2.6. Funding

Adequate levels of funding and resourcing are critical to a regulator's effectiveness. Funding arrangements also need to be transparent, accountable and independent.

Funding sources

A major issue in structuring governance arrangements for regulators is the source of funding, with available sources including government budget funding (consolidated revenue), fines, interest from trusts and investments and cost recovery from regulated entities.

Generally, government budget funding may be appropriate for general regulators; industry-sourced funding may be more appropriate for industry-specific regulators, subject to addressing concerns about the potential for capture by the regulated industry. The OECD has argued that the means by which regulators are funded can have a significant impact on their independence. Dependence on government for funding may compromise the regulator's political and administrative independence from government. Conversely, a dependence on fees and charges levied on regulated entities may result in over-sensitivity to lobbying driven by the regulated entities, rather than to the broader public interest.¹⁶

¹⁴ International Association for Public Participation, accessed 11 April 2012 at website www.iap2.org.au/resources/

¹⁵ Ibid.

¹⁶ OECD (2003), *Regulatory Reform in Norway: Modernising Regulators and Supervisory Agencies*, Paris, pp.139-156

An alternative model for funding an independent taxi industry regulator that is organisationally separate from the DOT would be to fund the regulator entirely on a cost recovery basis through fees and charges or a levy on industry participants. This model recognises that industry participants derive private benefits from the regulation of the industry. Such a model is used for funding some Victorian regulators, such as the Victorian WorkCover Authority and the Dairy Food Safety Authority.

While a cost recovery model appears appropriate for the TSC, apportioning benefit is likely to be a very difficult exercise in the complex taxi market. It may be that the approach taken by the ESC in its licence fee process – namely to levy the fee on the regulated entities and allow them to recover these costs in the price setting process – is the most effective and efficient option, although this may be administratively costly in this industry.

If cost recovery fees do contribute to the funds of the TSC, these fees should be set by the DOT in accordance with agreed government principles, including Department of Treasury and Finance's (DTF) Cost Recovery Guidelines.

It should be noted that, at present, the regulator is funded through the DOT's funding allocation. It should be possible to transfer these funds to the new regulator when it commences operation.

Funding transparency

The inquiry notes that the TSC's establishing legislation requires it to produce an annual report and satisfy the requirements of the *Financial Management Act 1994*. This includes transparency in the reporting of services provided by third parties. These requirements represent a significant improvement on the current situation where the VTD produces no separate financial statements.

Contingency fund

While the regulator should be funded to a level that allows it to discharge its responsibilities, including enforcement, prosecution and appeals, it is possible that unforeseen court actions requiring considerable legal costs may arise. *Improving Governance of Regulators* states that "it is not practical for Government to provide regulators with pre-approval of substantial funds for major unanticipated court actions".¹⁷ However, regulators need to have some confidence that they can access funds for these purposes and that the Government will not unduly hamper their effectiveness by failing to fund court actions.

The ACCC has a contingency fund available, as does New Zealand's Commerce Commission (a regulator similar to the ACCC). Other regulators – for example,

Consumer Affairs Victoria – have access to other funds, such as interest from trust accounts. It may be possible to build a funding bank for the TSC's legal activities. Further consultation with the DTF will be necessary in the longer term on this matter.

The inquiry welcomes comments on how the regulator should be funded, both as a ongoing concern and in relation to its legal costs.

Inquiry findings

- ➔ As an industry-specific regulator, it seems appropriate that industry meets the TSC's costs through licence and other fees.
- ➔ The TSC's establishing legislation providing for transparency in funding should be retained.
- ➔ Consideration should be given to providing the TSC with contingency funding for legal activities.

22.3. Regulation

In relation to its regulatory responsibilities, the TSC's core business will be regulating point-to-point transport. Within this core business, a number of aspects can be significantly improved to enhance the effectiveness of the regulator.

22.3.1. Scope

The inquiry is making recommendations about the scope of the regulator's reach. In doing so, it has taken into account its proposed new industry structure and the degree of complementarity and overlap between various market segments. At present, the scope of the VTD's regulation is broader than simply taxis and hire cars: it includes administering the regulatory environment under the *Transport (Compliance and Miscellaneous) Act 1983* applicable to not only taxi and hire car drivers but also to the drivers of commercial passenger vehicles and private buses. It also includes, under delegation of the Secretary to the DOT, administering the provisions of the *Road Safety Act 1983* applicable to driving instructors who teach car drivers.

The inquiry's view is that having extraneous regulatory obligations to administer may be a distraction from the regulator's core business, particularly during the implementation stage of the reforms proposed by the inquiry. Those regulatory functions that are not core to the TSC's objectives should be excised from the new taxi services regulator and their current and future form subject to review.

¹⁷ DPC (2010), p.56

However, while it is clear that 'traditional' taxi and hire car services are within the TSC's regulatory domain, 'alternative' transport options are likely to emerge that are neither clearly point-to-point nor fixed route services (such as taxi shuttles and taxi-buses, small buses and even some conventional buses). The question is: how should these services be treated and who should regulate them?

Longer term, there may be a case for merging the TSC into a broader based transport or economic regulator. In general, a broader based regulator has the advantage of being less beholden to a particular industry and of being more likely to avoid an unduly narrow regulatory focus.

The inquiry welcomes comments on the scope of the TSC's regulatory reach.

Inquiry findings

- ➔ The TSC's core business is regulating point-to-point passenger transport. Other, unrelated aspects of transport regulation currently undertaken by the VTD are a distraction and should be moved elsewhere.
- ➔ In the longer term, the need for a separate taxi and hire car regulator should be assessed.

22.3.2. Regulatory approach – the nature of the regulation

The inquiry has been directed to review the sector against 'an outcomes-based and accountable regulatory framework'. While not directing the inquiry to develop an outcomes-based regulatory model, there is clearly an expectation from the Victorian Government that this option should be considered. Indeed, it has been the preferred regulatory model in Australia and internationally for some time.¹⁸

Outcomes-based regulation provides a flexible regulatory approach that often has the bonus of allowing least-cost compliance, encourages rather than limits innovation and can cope with technological change. By contrast, the current regulatory approach to the taxi and hire car industry is highly prescriptive, focuses on regulating inputs and often struggles to cope with changing circumstances. For example, the existing regulations still require meters to be physically sealed even though the available technology allows meters to be updated wirelessly.

To the extent possible, designing new taxi services regulation should be based on an outcomes-based approach. In some circumstances this can prove difficult to implement because it lacks specificity. For example, current provisions require all metropolitan taxis to have a safety camera; however, no guidance was provided to the VTD on how to implement this provision. There are no criteria upon which the VTD can base its decisions to approve any particular camera and no guidance about whether it needs to take into consideration the costs and availability of cameras. An alternative approach would be to specify what the camera must achieve and allow the industry to choose which cameras to install. In other areas of regulation, the regulator could also provide guidance to industry (through codes of practice or general guidelines) about what will satisfy set standards in order to minimise uncertainty. One clear risk for government is that such codes become defacto prescriptive rules.

Section 191ZE of the *Transport (Compliance and Miscellaneous) Act 1983* requires the Minister to instigate a review of the operation of Part VI of the Act, having regard to the inquiry's recommendations, following the inquiry's final report. The review is to be completed within 12 months of the final report. Part VI provides for the licensing and accreditation of small commercial vehicles. Clearly, these provisions will need to be reviewed in light of the inquiry's recommendations in this inquiry – not only will the review need to examine the specific regulatory requirements affected by the inquiry's recommendations, it will also need to examine changing the nature of the regulation to outcomes-based. The review will also provide an opportunity to ensure that there is a need to regulate in particular areas (using the tests set out in chapter 7).

The inquiry acknowledges that this is not a trivial task, but one that will need to encompass *all* of the relevant regulatory instruments, including legislation, regulations, licence conditions and rules. Given the scale of the reforms being proposed by the inquiry, consideration may need to be given to drafting a new, single piece of legislation that encompasses the entire reform package rather than attempting to amend multiple pieces of legislation.

Omnibus legislation will have the added benefit of streamlining regulation and, more importantly, reducing the regulatory burden on industry. Considerable costs are incurred in administering and complying with highly prescriptive regulatory systems. Simplifying and clarifying requirements and allowing entities to decide how best to comply – instead of having to fit into a regulatory 'straitjacket' – will go a considerable way towards reducing the regulatory burden in the taxi and hire car industry. In addition, adopting this approach will change the mindset of both regulator and regulated entities: coupled with

¹⁸ See for example, Department of Treasury and Finance (2011), Victorian Guide to Regulation, Victorian Government, Melbourne, p.25

proposed changes to the regulator's operating framework, where processes and procedures can be streamlined and even eliminated in some instances, it should reduce regulatory costs for the industry.

Inquiry finding

→ All regulation, not just that in Part VI of the *Transport (Compliance and Miscellaneous) Act* that affects the taxi and hire car sector, including regulations, licence conditions and rules, should be examined to ensure that, where appropriate, it is outcomes-based rather than prescriptive and that it satisfies the test for imposing regulation – namely, that there is a net benefit. This review of regulation should be a priority for the DOT.

22.3.3. The role of the Subordinate Legislation Act 1994

The *Subordinate Legislation Act 1994* (SLA) provides for ex ante review and evaluation of new delegated legislation and other new and renewed legislative instruments. Where certain criteria are met, a Regulatory Impact Assessment is required to be carried out and a Regulatory Impact Statement (RIS) prepared. Recent changes to the SLA have extended the reach of the RIS regime a broader range of regulatory instruments.

If the TSC can issue taxi licences, make codes and carry on a range of regulatory activities, these may be captured by the expanded requirements for a RIS. This would require the TSC to have internal processes in place to oversee regulatory instruments and possibly create a significant additional workload for the regulator.

The *Victorian Guide to Regulation* provides guidance on when instruments may be subject to the process of the SLA. However, the inquiry has found there to be uncertainty over the exact reach of the new RIS requirements. This relates to how licence conditions are treated under the revised SLA in conjunction with current transport legislation that appears to allow taxi licence conditions to cover most any aspect of the industry. For example, ss144 (2)(a) to (f) of the *Transport (Compliance and Miscellaneous) Act 1983* list specific kinds of conditions that may be attached to a licence. Section 144(2)(g) of the Act allows for any other conditions the licensing authority sees fit to apply to the licence in the public interest. In effect, this has allowed regulation to be imposed through licence conditions but without being subject to a RIS.

One option may be to limit what may be included as a licence condition.

Licence conditions

As noted in chapter 10, taxi licences are issued with conditions. Around five to seven pages of conditions are attached to each major category of licence.

Licence conditions vary in small ways between each of the categories of licence. More recent licence categories have added new conditions reflecting new concerns – for example, to support accreditation requirements. A wide range of matters is covered by the licence conditions, including general conditions covering zoning, taxi availability, fare setting and MPTP equipment and processing. Special conditions cover such matters as cameras, child restraints, age of vehicles, wheelchair capacity and driver training for wheelchair work, driver ID display advertising on vehicles and vehicle performance data.

No clear policy in relation to the setting of conditions seems to exist. Licence conditions may be an appropriate way to implement regulation that is subject to frequent change or that needs to be tailored to particular circumstances or to particular licensees. Specifying this type of regulation in legislation, whether primary or secondary legislation, may be a more difficult and costly way to proceed. However, the licence conditions attaching to taxis generally do not seem to fit these categories. They tend not to be changed once set, although a new category of licence may attract different conditions, and many of the same (or very similar) conditions apply across the licence categories.

To date, licence conditions have not been subject to formal regulatory impact assessment requirements through the Regulatory Impact Statement (RIS) process. This may have been a factor encouraging their use. The inquiry considers this to be an undesirable practice and that all significant regulation should be subject to RIS requirements.

Rationalising licence conditions

The inquiry has reviewed the licence conditions attached to all categories of taxi licence and considers there should be a rationalisation of licence conditions and a standardisation of conditions where they deal with similar issues. Further, these conditions should be established in regulation, not as licence conditions, and be subject to the RIS process. Where new licence categories are developed, existing regulations (conditions) on older licence categories should be updated.

In some cases, licence conditions should not be translated unilaterally into regulations as some are inappropriate, undesirably vague or simply internally inconsistent.¹⁹ There is a particular concern that some licence conditions may have the impact of restricting competition. This applies particularly in relation to zoning conditions, which are discussed in detail in chapter 10.

The regulator needs to have a clear policy guideline in relation to the setting of licence conditions. The legislation gives a very broad power for conditions to be set but it does not give guidance beyond this. The inquiry suggests that this power should be significantly narrowed and confined to matters in respect of particular licence holders. All other matters should be in the regulations.

Putting these conditions into regulations would have the added benefit of sunset provisions. Instead of a regulation (such as one administered through an instrument such as a licence condition) simply expanding over time without regular systematic review, the sunset clause in regulations requires regular reassessment of the relevance and effectiveness of regulation and its consistency. It would also improve transparency in relation to the setting of licence conditions.

In addition, the TSC could have a charter of conduct or similar public document that details how and when it would decide on what matters are subject to a RIS. This could be incorporated in a Charter of Consultation and Regulatory Practice (see section 22.2.5).

The inquiry notes that the Council of Australian Governments is currently pursuing the National Occupational Licensing (NOLs) initiative, which aims to incorporate all relevant behaviour and conduct requirements for licences into primary legislation, rather than attached as licence conditions. The NOLs system is aiming for a simple, consistent framework that caters for difference through different categories of licence set out in legislation, rather than through licence conditions. Victoria should follow this lead and move to remove general taxi licence conditions and replace them with clear, consistent regulatory requirements.

¹⁹ For example, a 10 year fixed term licence that is non-transferable and non-assignable still may have conditions that relate to situations where the licence is assigned

Inquiry findings

- ➔ The use of licence conditions to regulate the taxi industry has led to several undesirable outcomes, including inconsistent and complex regulation that is subject to appeal and not subject to proper regulatory practice, such as development through the RIS process.
- ➔ Licence conditions should be removed and all licences should have, as far as possible, consistent requirements that are provided for in regulation. Licence conditions should only apply to very specific circumstances and generally only to particular individual licence holders.
- ➔ Licence requirements/conditions should be standardised in cases where they deal with similar issues.
- ➔ There is uncertainty about the application of the *Subordinate Legislation Act 1994* to licence conditions. Despite recent changes, this uncertainty lingers. It may be appropriate to re-examine this issue.

22.3.4. Current regulation

The key factors in regards to regulation-making are effectiveness, flexibility and proportionality. The Victorian Guide to Regulation provides ample guidance on these factors. However, the issue of proportionality needs further attention.

The VTD has raised the issue with the inquiry of compliance rules not being successful in altering behaviour. A relevant example is that by the time drivers face the consequences of a series of infringement notices and then 'show cause' notices, a significant proportion have exited the industry. While the nature and success of compliance post reform cannot be predicted, the principles of an escalating and effective compliance and enforcement regime should be embedded in any future regulatory environment. While the inquiry considers that when and how the regulator invokes these powers should be at the discretion of the regulator, it is important for tools and remedies to be available that fit the circumstances and that are effective in achieving satisfactory compliance.

The complexity and overlapping nature of the current regulation also raises compliance issues, with a number of respondents telling the inquiry that there are too many requirements for industry participants to ever be fully compliant.

Another example of complexity is the setting of fares. The determination of taxi fares is the role of the Minister and is set out in the Act. Prior to determining fares, the Minister is obliged to refer to the ESC for investigation and must take advice from the licensing authority. Once determined, the licensing authority imposes the fares through an amendment to the licence conditions. Fares and hiring rates are then imposed as a schedule to the licence conditions. Provisions in the *Transport (Taxi-cabs) Regulations 2005* then apply to the levying of fares on customers and the conduct of drivers and operators. These regulations also provide a power to the licensing authority to determine standards for taximeters, requiring yet another instrument to set out those requirements. Fare regulation then returns to the Act, whereby certain charges are identified to be paid only to drivers and cannot be disbursed to taxi operators or others.

The post inquiry review of regulation undertaken by the DOT needs to consider how the regulation operates in practice and examine ways to make it as simple and transparent as possible.

Obtaining information from industry

Obtaining accurate information from industry is critical to the regulator pursuing its objectives effectively and efficiently.

Although currently required to submit substantial data about trips, activities and revenue to the VTD, Network Service Providers and taxi operators have been recalcitrant in meeting this requirement. As the inquiry has found, there continue to be very significant gaps in the data provided by industry, making it difficult to gain an accurate picture of key aspects of the industry's performance.²⁰ This should not be allowed to continue.

With changes to technology throwing up considerably more options in relation to data capture than have been available previously, there is scope for the TSC to obtain access to much more information about the day-to-day operation of the industry. In particular, new technologies being deployed in vehicles means that data can be provided directly from the taximeters to the regulator, rather than via Network Service Providers or taxi payment system providers. This is already occurring in New York City.

Access to this data will greatly enhance the understanding of industry performance and allow better targeted and more effective regulation of the industry. Industry information and analysis is also essential to making a risk-based regulatory framework work: the regulator will need the capability to access information directly from vehicles, store it, analyse and report on it and use it for enforcement and strategic planning purposes.

It will also allow the Government to properly evaluate its industry reforms by providing a baseline performance benchmark and using this to evaluate any subsequent changes and outcomes.

Inquiry findings

- Information is crucial to effective regulation, and past attempts to obtain this have been less than successful. The industry regulator needs timely access to reliable information and the best way to obtain this information is directly from the cab.
- The TSC will need the power to require all relevant parties to make available data and information that is necessary for the regulator to perform its functions.
- Accurate, relevant and contemporary data will enable the regulator to do its job better and will give the Government the information it needs to evaluate industry reforms.

22.4. An expanded role for the regulator

As noted in chapter 19 and at the start of this chapter, the inquiry considers that the new regulator should take greater responsibility for assessing market conditions and providing information to the industry, consumers and government.

In a complex industry such as the taxi and hire car sector, it is often difficult for both consumers and industry participants to gain a clear picture of industry conditions, structure and performance. For consumers, this information is critical to making choices about which services to use. For industry participants, information is essential to making business and investment decisions. For the regulator and the government, information about the industry is crucial to delivering sound policy and making effective regulatory decisions.

More broadly, as noted throughout this report, the industry is currently characterised by a lack of competition and innovation. Requiring the regulator to take into consideration the effect of its decisions on the industry's competitiveness will give the TSC the potential to deliver significant benefits to taxi and hire car users (through new services and greater choice in services) and to industry (through higher occupancy rates).

²⁰ See section 2.4

In the first instance, the TSC will take an active role in providing more information to the Victorian public about the identity of taxi and hire car industry participants. The inquiry is recommending that the TSC establish a Public Register of industry participants and make the register available on its website. The register should include details such as names, business contact details, types of licences owned and the number of vehicles attached to their licence or permit.

Other measures that could be taken by the regulator include:

- Publishing regular updates to industry about market conditions
- Introducing formal mechanisms (such as advisory groups or industry forums) for working with industry to identify and expedite new opportunities for market expansion

- Providing examples of innovation in taxi and hire car services
- Publishing performance measures to allow consumers to make more informed choices and to encourage entities to strive to meet the standards set by industry leaders.

Inquiry finding

→ There are opportunities for the new regulator to work with industry to stimulate competition and promote innovation. This expanded role has the potential to deliver benefits to both consumers and industry participants.

The case for national reform

During the course of the inquiry, efforts have been made to engage with other jurisdictions to obtain knowledge of the regulatory systems operating elsewhere and of any likely future reform initiatives being contemplated by these jurisdictions. What stands out from these discussions is the commonality of the issues faced by each jurisdiction and the potential benefits to be obtained by working together to achieve desired reforms.

Over the past 15 years in Australia, there have been several phases where national reforms have been on the agenda in relation to taxis. Initially, taxi reform was covered by National Competition Policy (NCP). However, the reviews and reforms undertaken by most States and Territories were judged by the National Competition Council as failing to meet the NCP obligations. Further reforms, including the National Reform Agenda and the subsequent, Seamless National Economy initiative (including the National Occupational Licensing Scheme) did not include taxis and hire cars.

Given the essentially local nature of taxi and hire car industries, little is likely to be gained by developing a national regulatory framework for these industries: regulation is best kept at the State/Territory level. There also does not appear to be a strong case for seeking comprehensive harmonisation of regulation across jurisdictions. While there may be some benefit in developing common understandings about the nature of regulation required and methodologies to be applied in implementing regulation, circumstances vary widely between the jurisdictions – suggesting that each jurisdiction should be able to pursue reforms as it thinks appropriate. This particularly relates to the issue of what to do about licence number restrictions.

However, there are a number of specific areas where harmonisation does appear to be a desirable objective and a national reform program could usefully encompass these areas. This would be a wider agenda than that pursued to date through the Australian Transport Council and could cover driver and vehicle regulation issues in the first instance, before examining other aspects of industry regulation.

Driver licensing

It seems sensible, given the work already done to develop core National Taxi Driver Competency units and a National Minimum English Standard, to seek further harmonisation of requirements for driver certification. In particular, driver experience requirements and criminal record check requirements could be standardised across the jurisdictions. A move from individual jurisdiction driver certification or licensing to national licensing would then be easier to implement. A national licence would allow a person to drive in any jurisdiction without having to obtain separate jurisdictional licences and would have advantages over mutual recognition in this respect.

Driver remuneration

This inquiry considers a move to employment status for drivers to be highly desirable if one of the fundamental causes of poor service performance is to be addressed. However, as noted in chapter 13, the relevant award (which covers bus drivers and others as well as taxi drivers) is not considered fully appropriate for taxi drivers. The inquiry considers that a review of the appropriateness of the Passenger Vehicle Transportation Award under the *Fair Work Act 2009* (Cth) should be initiated jointly by the jurisdictions. The aim would be to achieve more efficient and equitable levels of remuneration for taxi drivers on a national basis.

Vehicles

Specific taxi and hire car vehicle restrictions vary between jurisdictions for little apparent reason. Greater consistency in vehicle regulations may assist manufacturers and importers to supply more appropriate vehicles to the Australian taxi market as a whole, including improving the overall accessibility of the fleet.

Taximeters

Taximeters have been exempt from trade measurement legislation in Australia.²¹ This situation has been maintained with the recent transfer of the trade measurement functions of State and Territory governments to the Australian Government and the passage of new national measurement legislation. Generally, the responsibility for assessing meters and their accuracy still falls to the taxi industry-specific regulators. These regulators are not experts in trade measurement and the inquiry has found that the regulation of taximeters in Victoria has not been sufficiently rigorous to give confidence that meters are always accurate to internationally recommended standards. There would be clear benefits in the National Measurement Institute taking on responsibility for taximeters and working with jurisdictional taxi regulators in this area.

Consistent reporting and benchmarking of taxi and hire car regulators

Taxi and hire car regulators perform similar functions to each other in their different jurisdictions. It is desirable that regulation be locally focused and this is best achieved by having regulators operating at the State and Territory level. However, it is also desirable that regulators perform their functions efficiently and effectively: in this respect, there is a case for ensuring consistent reporting of their activities and possibly benchmarking their performance.

Progressing national reform initiatives in taxis and hire cars

The inquiry considers that there is a strong case for pursuing on a national basis a number of the taxi and hire car reforms, such as those outlined above. The inquiry has no particular view as to the most appropriate mechanism for this to occur; for example, whether this is through the Standing Council on Transport and Infrastructure (which has replaced the Australian Transport Council), the National Transport Commission or the Business Regulation and Competition Working Group, or its successor, under the Council of Australian Governments. Reforms could also be progressed by a limited number of interested jurisdictions. The Interstate Reform Partnership, established by the Premiers of Victoria and NSW in 2011, may also provide an appropriate mechanism to advance reform²².

Application of competition laws

The inquiry has identified adverse effects on competition in the taxi industry arising from the dominance of particular entities. The Australian Competition and Consumer Commission (ACCC) is the national body responsible for the administration and enforcement of the *Competition and Consumer Act 2010* and has a vital part to play in ensuring compliance with this law. State and Territory regulators have a role to play in highlighting their concerns about competition restrictions to the ACCC and removing unnecessary regulation that may be facilitating the growth or maintenance of restrictive practices. There is a need for the State and Territory taxi and hire car regulators and the ACCC to liaise closely to ensure markets are as competitive as possible. There may be a case to formalise the cooperation of these bodies through memoranda of understanding or similar mechanisms.

21 Section 4B(1) (b), *Commonwealth National Measurement Act 1960*

22 See The Hon. Ted Baillieu MP and the Hon. Barry O'Farrell MP, Interstate Reform Partnership – NSW and Victoria, Communique 14 December 2011

Chapter 23.

23. A new direction

- The inquiry's reform package is designed to deliver significant and lasting improvements in three critical areas: increasing and improving the supply of taxi and hire car services, restoring trust in the taxi industry and boosting demand for taxi and hire car services.
- Unduly restrictive regulation is at the heart of the many problems raised with the inquiry and making piecemeal regulatory changes will deal only with the symptoms of these problems. The inquiry's reforms aim to generate a fundamental shift in the focus of regulation and in the balance between government, industry and market regulation (competition).
- Under the inquiry's proposals, government regulation will become more outcomes-focused and less prescriptive; more responsibility will be placed on industry for good service performance; and competition will operate more effectively to improve performance and standards. There will be a significant reduction in the administrative and compliance burdens imposed on the industry as a result of the better targeting of regulation and the removal of undesirable regulation.
- While noting that quantity restrictions to entry to the taxi and hire car industry are not justified on market failure or public benefit grounds, the inquiry is not recommending an immediate move to an open 'free entry' market at this time. The inquiry's approach is to change to a policy whereby, for a set price, any qualified person can purchase a new licence from the Government at any time. There will be no limit on the number of licences issued and no restrictive 'public interest' test applied by the regulator. New licences will not be free, but will have fixed prices to be paid annually. The price of the new licence will also effectively cap existing assignment prices for perpetual taxi licences and prevent future growth of taxi licence values.
- The current licensing system has resulted in taxi licence holders being able to capture a greater share of industry income than is generally seen as desirable. At the same time, drivers have been underpaid. The inquiry's reforms seek to re-balance this income distribution by reducing, but not removing, the returns to licence holders and increasing driver income.
- At the same time, the inquiry's recommendations aim to increase demand for taxi services, building the economic strength of the industry and its capacity to absorb reforms. Barriers and impediments to expanding the range of services that can be offered by taxis will be removed, assisting the industry to realise its potential.
- Over time, the structure of the industry should shift towards a more open and competitive market with a higher number of owner-drivers and both small and large businesses offering greater choice in services, vehicles and price.
- The inquiry's recommendations form an integrated package of reforms that aim to deliver the following broad outcomes:
 - *For consumers* – Better services and a greater choice of services that are safe and reliable, and that offer a bigger range of travel options and prices
 - *For industry* – A more diverse and dynamic industry, a reduction in the regulatory burden and new opportunities to expand into new markets and attract more customers
 - *For taxi operators* – More choice in the networks they join, the services and equipment they purchase and the types of service they provide
 - *For drivers* – Better remuneration and improved working conditions, greater valuing of driver experience and quality, and more opportunities to start their own taxi businesses
 - *For government* – A more effective industry regulator and better targeted, less complex regulation that protects consumers and improves safety.

The inquiry has found that taxis and hire car services are vital elements of Victoria's transport system.

However, the inquiry's investigation has highlighted the disappointment of many Victorians with the general standard of services currently being provided by taxis. The industry is not seen to be responding to these concerns and there is little confidence it will do so in the future without significant reform.

Perceptions of poor service performance, high fares and a low level of innovation are major contributors to stagnating demand for taxi services. The uneven distribution of income derived by the taxi industry also has an impact on service quality. Licence holders benefit significantly from the scarcity of licences; others in the industry with market power, such as network service providers (NSPs) and Cabcharge, also do well. On the other hand, taxi drivers engaged by operators receive around half the wage they would be entitled to if they were treated as employees. Taxi operators who are paying fees to licence holders under assignments are also under increasing cost pressures.

As noted at the start of this report, there are now significant anti-competitive forces at play within the industry, with many years of constraints on competition creating an industry mindset that is heavily focused on protecting incumbent interests, rather than seeking ways to improve services to consumers.

23.1. A new regulatory direction

Unduly restrictive regulation has shaped the taxi industry over many years and is at the heart of the problems raised with the inquiry. While there is an important role for regulation of the industry – indeed, more so than many other industries – the type and extent of regulation is particularly critical in relation to taxi services. The inquiry's conclusion is that reform of the entire regulatory framework affecting taxis, and by association hire cars, is necessary to achieve sustained improvement in industry performance and secure the industry's long term future.

The inquiry's view is that further piecemeal regulation, as proposed by key elements of the industry, will deal only with the symptoms of the many problems identified in this report. Such an approach will also reduce the chances of ever achieving substantive reform of the taxi industry. Accordingly, the inquiry's reform package is aimed at generating a fundamental shift in the focus of government regulation and in the balance between government, industry and market regulation (competition). Under the inquiry's proposals, government regulation will become more outcomes-focused and less prescriptive; more responsibility will be placed on industry for good service performance; and, most importantly, competition will be allowed to operate more effectively to enhance good performance.

The main changes to regulation considered necessary by the inquiry are:

- A significant change in the way entry to the taxi industry is regulated
- Stronger regulation covering driver and vehicle quality, including a move away from exploitative bailment arrangements for drivers and allowing greater freedom for operators to use better, safer and more accessible vehicles
- A more effective outcomes-focused and informed regulator
- Greater flexibility and certainty in fare setting to enable more efficient and competitive fares to be set
- Removal of unnecessary regulatory impediments to service innovation
- Removal of unnecessary regulatory impediments to network competition
- Enhanced responsibility and accountability of networks for service performance to consumers and operators
- Removal of unnecessary regulatory restrictions on the operation of electronic payments and processing.

Over time, the inquiry's reforms aim to lead to a more diverse and dynamic industry, lowering many of the barriers to entry and encouraging a range of large and small service providers offering much greater choice and flexibility in services.

At the same time, the reforms seek to boost demand for taxi and hire car services, reversing the industry's stagnation and giving operators the opportunity to move into new markets and attract new customers – and, in turn, improving their capacity to increase driver pay and attract experienced, quality drivers.

Over time, the overall outcome the inquiry envisages is for a much more competitive industry at all levels that is able and willing to provide good service performance and become more innovative. Further, the inquiry envisages that there will be a reduction in the administrative and compliance burdens imposed on the industry as a result of better targeted regulation and the removal of undesirable regulation.

23.2. A new industry direction

The regulatory reforms proposed by the inquiry are substantial and comprehensive, and intended to set the taxi and hire car industry on a new path towards a more secure future – one based on providing quality services that meet changing consumer demands, needs and expectations.

The inquiry recognises that achieving sustained reform relies upon the industry being able to absorb and benefit from the impacts of reform. Inevitably, reforms will have different impacts on different firms and individuals, but it is important that the viability of the industry overall is not jeopardised. There will also be transition effects as adjustments are made to the new regulatory framework. As much as possible, these transition effects need to be managed to smooth the path of reform in a way which does not undermine its achievement.

As indicated in the report's Overview and comprehensive economic analysis of existing regulations (chapter 10), in an 'ideal world' the inquiry considers that the quantitative restrictions to the entry of suitably qualified persons or organisations to the taxi and hire car industry should be removed and entry should be 'free' or at administrative costs only. These restrictions are not justified on market failure or public benefit grounds. They are detrimental to competition and innovation and cause licences to acquire significant value. Inevitably, the restrictions also make it more difficult for a wider range of people, including drivers, to operate their own businesses. As experience has demonstrated, the holders of restricted licences are able to capture the benefits of more efficient industry performance without re-investing their rewards back into the industry. Industry performance suffers as a result.

An immediate move to a full open market would undermine existing market values of licences and drive these to zero. With current values for perpetual licences around \$500,000 in Melbourne and over \$300,000 in many areas outside of Melbourne, this would impose severe losses on licence holders, some of whom will not have obtained excessive returns on their licences in the past, having acquired them well after restrictive licensing was first introduced. The inquiry is unwilling to recommend a full open market without some measures to offset the losses licence holders would suffer, even if these are paper rather than actual losses for many licence holders.

The inquiry has considered various ways in which licence holders could be compensated for losses associated with the elimination of licence values. These include various compensation and hardship schemes and buy-back and lease schemes. All of these options have significant weaknesses. At a time of budget stringency, compensation and/or hardship payments are unlikely to be available from the Government. While buy-back and lease options have some attractions, they require substantial up-front funding that is also not likely to be readily available. Accordingly, the inquiry has devised its reform package on the basis of there being no compensation or similar funding being available.

Experience elsewhere also suggests strongly that a policy commitment to the ongoing release of licences (as part of a gradual reform process) is seldom sustained for the period required. There is also the problem of markets being opened without an accompanying appropriate approach to fare regulation, with the resulting increase in licence numbers failing to achieve supply and demand balance.

In light of these constraints and experiences, the inquiry has considered an alternative approach to deal with the restricted licensing system. The inquiry's approach is to move from a restriction on the number of licences available to a policy whereby any qualified person can purchase a new taxi or hire car licence from the Government at a fixed price. The price proposed by the inquiry for a taxi licence will be set as an annual payment. This will effectively cap existing assignment prices for perpetual licences in the private market and prevent future growth of licence values. While this will reduce returns to licence holders, it will enable them to continue to earn a reasonable income from their licences. Importantly, this price-based approach to rationing licences removes the need for the regulator to determine the number of licences to issue each year. This decision will be in the hands of the market – that is, left to people deciding whether or not they want to operate in the industry and believe they can do so profitably.

The new licensing pricing will also remove the potential for future capital gains, which are factored into current licence values. The impact of the proposed policy on existing perpetual licence values will depend upon how licence owners discount returns and, in particular, how risky the returns are perceived to be. Higher perceptions of risk will lead to lower values. If the inquiry's reforms are implemented with a strong commitment to the new licensing approach, then taxi licences are likely to be regarded as a relatively lower risk, lower return investment.

The current licensing system has resulted in licence holders being able to capture a greater share of industry income than is generally seen as desirable. Concomitantly, it is generally acknowledged that taxi drivers have been underpaid. The inquiry's proposed reforms seek to re-balance this income distribution by reducing the returns to licence holders and increasing driver remuneration. A key mechanism to achieve this is through setting the price of new licences. The inquiry's intention is that this price be set at a level that will cause assignment prices to be reduced, allowing room for driver remuneration to increase. Other recommendations are also aimed at improving the financial position of taxi operators to allow them to accommodate higher payments to drivers.

Licences acquired under these new arrangements will not be assignable. The implication of this is that all new licence holders will be required to be operators. Under the inquiry's proposed new streamlined regulatory system, operators will be known as 'permit holders' and will have access to as many taxi and hire car licences (and vehicles) as they wish and can afford. However, by significantly lowering the cost of obtaining a licence, the inquiry anticipates that drivers will find it easier to become permit holders as they will only have to pay an annual lease fee, not the full value of a licence. In addition, the exploitation that appears to be associated with assignments under the current system, whereby relatively uninformed people pay very high assignment fees, should disappear. The owner-driver component of the industry should expand. A shift to non-assignable licences should have beneficial effects on the quality of service performance, and the overall emphasis will shift away from an investor model to a service industry model.

The inquiry's reforms are also aimed at increasing demand for taxi services, which will be crucial to building the economic strength of the industry and its capacity to absorb reforms. With vehicle utilisation averaging only 28 per cent in the metropolitan area in 2011, it is not surprising that the taxi industry does not generally support new entrants or see that it has the capacity to provide better vehicles and drivers to enhance service and safety performance. This thinking is short-sighted. The inquiry's view is that it is far preferable for the industry and government to embrace the idea of removing the barriers and impediments that are preventing the industry from realising its potential.

The inquiry would like to see the hire car industry develop to a point where it can represent a genuine 'pre-booked' alternative to taxis, particularly in the immediate dispatch market, but also to support taxis to better meet demand at peak times. The current market price, set by the Government, has not achieved this outcome. More affordable licences and less prescriptive vehicle types are needed to allow incumbent hire car networks to grow and for new entry to foster competition and innovation. The inquiry is recommending a new simplified, statewide hire car licence, the pre-booked only (PBO) licence, to replace the current metropolitan and country zone restrictions imposed on hire car services.

As with taxis, the inquiry has considered an open market approach to hire cars where licence fees are set to no more than administrative costs. Such an approach would impose losses on licence holders, particularly those with larger fleets of vehicles. As noted above, the inquiry's reform package is based on no compensation being available and the inquiry has set the new hire car licence price at a level that will reduce, but not remove, the value of existing licences.

The directions described above highlight an important aspect of the inquiry's approach to reform. The measures the inquiry has determined are necessary to improve the industry's performance are interlinked and, to a significant extent, co-dependent – for example, the licensing and driver remuneration measures outlined above are critical to achieving core reforms that are targeted to both the general taxi and hire car market and to specific sub-markets.

23.3. Customers First: Service, Safety, Choice

This section sets out and explains the inquiry’s full package of draft recommendations, cross-referenced with the relevant sections of the report for further detail and analysis. The inquiry reiterates that these are draft proposals only. The inquiry welcomes comments on these proposals, especially in relation to areas and recommendations where new evidence or data can be provided to demonstrate that more effective approaches or solutions may be available than those now being proposed by the inquiry.

Changing terminology

The inquiry is recommending the replacement of the existing taxi industry accreditation scheme with a more streamlined, less costly and more accountable system of approval and responsibility (Recommendations 9.1 to 9.11). This scheme, and related recommendations in the reform package, changes the current terminology applying to some elements of the industry. The inquiry’s recommendations adopt the proposed new terminology.

Current	Proposed
Licence holder	Licence holder (applies only to current licence holders who choose to not operate a vehicle)
Taxi licence holder Responsible person/Assignee Taxi operator Hire car operator	Commercial passenger vehicle permit holder (applies to existing licence holders who operate a vehicle and purchasers of new licences, and to existing taxi and hire car operators)
Network Service Provider	Authorised Taxi Organisation (ATO)
Hire car	Pre-booked only cab (PBO)

Improve and increase supply

There will be more taxis and hire cars on the road, more competition and innovation in the market for pre-booked services and more opportunities to enter various segments of the taxi and hire car markets. Customers will benefit from greater availability and choice of services, and from more reliable and accessible services.

1. More taxis

The inquiry is proposing to change the restriction on the issue of taxi licences across Victoria from a restriction on the numbers available to a policy whereby any qualified person can purchase a new licence from the Government at any time. There will be no quantitative limit on the number of licences issued and no restrictive ‘public interest’ test applied by the regulator. New licences will not be free, but will have fixed prices to be paid annually. Over time, as the market for taxi services grows, this policy will free up the supply of taxi licences, ensuring greater availability of service at peak times and fix the ongoing problem of having the regulator determine an appropriate supply and demand balance.

All new licences will be available for a five year term at a fixed price, paid upfront each year. In Melbourne, the inquiry has reached the view that an appropriate price for a new five year licence, one that reflects the balance of interests between existing licence holders, other industry participants and consumers, is \$20,000 per year for a conventional licence. There will be some new entry at this price, but it will not be dramatic. The fixed price should not be increased or indexed over time.

As noted earlier, the inquiry expects that the sale of new licences will cap the return on existing conventional licences (the assignment fee) at \$20,000 per year. The inquiry considers this to be a reasonable return that will enable licence holders to continue to obtain an income from their licences to support their retirement or other activities. It will also allow more of the revenue from taxi services to go to the driver. This is essential to deliver a better passenger experience. In the longer term, the effects of annual payment licences will become more significant. Licence values will no longer feed into fares, the number of owner-drivers will increase and the industry will be better placed to meet changes in demand.

The new licence pricing policy should be extended across Victoria. The inquiry has heard that problems of restricted supply and availability are more problematic in other areas of Victoria, where growth in new licences has trailed even population growth. This is reflected in very high licence values, even in towns with fewer than 50,000 people.

Extending the policy across Victoria raises challenges. The first is how to set the new licence price in areas outside of Melbourne. The second is whether to simplify zoning and service area restrictions.

The inquiry considers that the annual price for new licences determined across Victoria should, as for Melbourne, provide for a greater share of the fare revenue to flow to the driver while providing a reasonable return for licence holders and facilitating more taxis in the longer term. However, determining prices that achieve this objective is more difficult in areas outside Melbourne. Recent transfer values of licences in many non-metropolitan areas are not available, and licences are much more likely not to be assigned but to be operated by the licence owner. Further, in many smaller service areas, transfers of licences occur as part of a going business concern, including the transfer of real assets. This particularly applies in very small markets with fewer than four licences, where the licence has little value separate from the business.

To determine a new licence price for a particular market or service area, the inquiry has grouped service areas that have similar characteristics. This grouping has been determined on the basis of recent licence transfer values or, where no value is available, by inferring a licence value from areas with similar service populations and number of licences. A price for new licences across these groups of areas has then been determined based on the average price of licences across the group, and allowing for a reduction in the annual price to balance the return to licence holders with higher payments to drivers.

A further related issue considered by the inquiry is zoning or service area restrictions. Zoning restrictions limit competition and are costly for consumers. Zoning regulations in a restricted entry system help to keep vehicles servicing the area in which they are licensed and stop them gravitating to areas where the profits available are higher. In a system where licences are available at no cost, zones are unnecessary and vehicles should be free to work wherever they wish. Under the inquiry's proposed model, some zoning restrictions will need to remain as long as different prices for new licences are set. However, it is not necessary to maintain existing zone areas. These could be significantly rationalised with no detriment to service as long as a vehicle assigned to one zone primarily works in that zone. Indeed, by providing greater flexibility for vehicles to pick up and put down customers across existing zones, rationalising the zones should improve service.

The inquiry's conclusion is that a four tier system should strike the best balance between consumer interests and existing industry interests at this time.

The current licensing approach has led to an overly complex and inconsistent set of taxi licences. Simplifying licence types and making licence conditions uniform will simplify the regulator's task. However, rationalising licences is difficult because it creates winners and losers. For example, if a licence that was sold on the basis that it could not be assigned is made assignable, the value of that licence will increase. The inquiry considers that incumbent licence holders should be offered the opportunity to convert to the new licence types, but recognises that a forced rationalisation may be undesirable.

There are two licence types which the inquiry considers could be readily converted to the new licences: the new wheelchair accessible taxi (WAT) licences released through 2010 and 2011, and peak service licences. The Government should facilitate the conversion of these licences. In the case of the WAT licences, these licences should be cancelled and WAT owners permitted to buy one of the new (cheaper) WAT licences. For peak service licences, the inquiry considers that a moderate licence discount should be sufficient to encourage licence holders to convert these licences. The inquiry notes that it is less clear how the 200 10-year conventional taxi licences sold in 2010 could be converted to the new licence type.

Recommendations

- 1.1** A new approach to taxi licensing should be adopted statewide whereby licences are available at any time to approved applicants at a set price.
- 1.2** The restrictive public interest test currently applying to the issue process for country taxi licences should be removed. All new licences in Victoria should be granted 'as of right' to approved applicants who wish to purchase them at set prices.
- 1.3** New and existing licences should be authorised to operate in a four tier system of taxi zones, with corresponding prices for new licences established for each zone (as below). The inquiry's recommended zonal boundaries take into account current licence values as the core criterion and, where this information is limited, other indicators have been taken into account such as size of market, number of licences, licence values and population growth in different parts of the state:
- *Zone 1: Greater Melbourne*
This zone should combine the existing metropolitan and outer suburban zones (Dandenong and Frankston)
 - *Zone 2: Urban*
This zone should include the regional cities of Ballarat, Bendigo and Geelong (currently deemed as separate urban zones) and other service areas where current licence values are, or would be expected to be, above \$200,000
 - *Zone 3: Regional*
This zone should comprise service areas where current licence values are, or would be expected to be, between \$100,000 and \$200,000
 - *Zone 4: Country*
This zone should comprise all other parts of the State not covered by Zones 1, 2 and 3
- 1.4** The new conventional and WAT licences should have set annual payment prices as follows:
- *Zone 1: Greater Melbourne – conventional* \$20,000 per year; WAT \$16,400 per year
 - *Zone 2: Urban – conventional* \$12,000 per year; WAT \$9,400 per year
 - *Zone 3: Regional – conventional and WAT* \$6,500 per year
 - *Zone 4: Country – conventional and WAT* \$2,000 per year.

- 1.5** The new taxi licences should have a uniform set of conditions set in regulation, including that they are:
- Fixed term for five years
 - Transferable
 - Non-assignable (the rights to operate the vehicle cannot be given to another party)
 - Payable upfront annually via a fixed price
 - Able to be handed back (upfront payments will not be refundable)
 - Not subject to the current 'continuous operation' licence condition so that they are able (but not required) to operate 24 hours a day, undertaking rank, hail and pre-booked work.
- 1.6** The 330 10-year WAT licences issued throughout 2010 and 2011 into the Greater Melbourne area, and the 600 restricted peak service 'green top' licences issued between 2003 and 2009 that operate in metropolitan Melbourne, should be offered the option to convert to the new five year licence (including the new terms, conditions, payment prices and method of issue).

A note about taxi brokers

The inquiry has received many submissions and comments on the role of brokers of licence assignments and transfers. This includes allegations of unethical and illegal practices. As discussed in chapter 10 and Appendix E, evidence collected by the inquiry suggests that in the assignment market, there is an unexplained dispersion in prices reported by brokers, with differences of up to \$10,000 a year being reported for metropolitan assignments. This is a possible indication that this market is not working efficiently. Taxi operators and licence owners both likely suffer detriment from this. The inquiry's view is that its proposed new licence policy will resolve many concerns with broker practices.

Under the new system, operators faced with brokers demanding higher assignment fees or cash payments will be able to acquire a licence from the Victorian Government. Licence owners will have a benchmark return to refer to in dealings with brokers. This should prevent any exploitation by brokers and facilitate the smoother operation of assignments and transfers. Consequently, the inquiry is making no specific recommendations relating to brokers. However, the inquiry does seek comments on two issues: whether there is a remaining role for brokers in the industry after these licensing reforms are introduced and whether existing provisions regarding the specific regulation of brokers should be repealed and brokers made subject to the provisions of section 12 of the *Estate Agents Act 1980* (which already captures brokers' activities).

2. More hire cars – Pre-Booked Only (PBO) cabs

Hire cars in Victoria provide a high level of service, particularly at the luxury and premium end of the commercial passenger vehicle industry. Yet the ability for hire car services to grow, compete with taxis and be more accessible to Victorians is hampered by a number of regulatory restrictions. The costs of these regulations are borne by both consumers and providers of hire car services.

A range of problems with hire car regulations have been raised with the inquiry, including that hire car licence categories and conditions, operator requirements and vehicle restrictions are complex, outdated and burdensome, act as barriers to entry and are difficult to enforce. In addition, the current regulatory settings of licence fees, vehicle requirements and zoning constrain competition in the pre-booked market. Hire car networks are generally not large enough to compete directly with taxis throughout the week, particularly for ‘ready-to-ride’ jobs.

As with the taxi industry, there are also suggestions that existing hire car licence regulation unnecessarily constrains business activities and inhibits innovation into new service offerings.

The inquiry’s recommendations seek to reduce the restrictions and complexity placed on the hire car industry. The hire car industry produces high quality services that are highly valued by consumers with little evidence of the service problems well documented in the taxi industry. As hire cars must be pre-booked, operators rely on positive service experiences to generate repeat business: this tends to offset the need for prescriptive service regulations (although there is still a role for regulation in enforcing minimum standards of safety). International jurisdictions have shown that hire cars can compete with taxis, as well as acting as a support for taxis in meeting the community’s demands for transport if the correct settings are in place.

The introduction of ‘Pre-Booked Only’ (PBO) and ‘Restricted Hire’ (RH) licences will greatly simplify the categorisation of hire cars, making compliance and enforcement easier for operators, drivers and the regulator. The inquiry has reached the view that an appropriate price for a new PBO licence should be \$40,000 and a RH licence \$2,000. At this price, the inquiry considers that there will be some new entry but, as with taxis, there are issues of loss of licence value to consider. The lower price recommended by the inquiry should allow existing operators an opportunity to obtain more licences and allow larger fleet operators to expand their network. It may also give taxi and hire car drivers an opportunity to move into a hire car business of their own. In turn, customers should benefit from increased service availability and an expanded and more competitive commercial passenger vehicle industry. The inquiry recognises that the price may benefit from a review in a few years to assess how well the reform is working.

The removal of the public interest test and the metropolitan-country zone for hire cars will offer greater flexibility for operators and provide the opportunity for more competition across Victoria.

Both hire car and taxi operators have voiced very strong concerns about the high incidence of touting, calling for tougher penalties and stronger enforcement action against touts. The issue is a potentially serious one where touting is done by unlicensed drivers or by using an unlicensed vehicle. The new licensing model will make detection of rogue operators easier for the public and the regulator. Touting at the airport presents a further challenge. The inquiry considers that as well as enforcement activities against touting, consumers would be well served by having avenues to pre-book services at the airport. Accordingly, the inquiry is recommending that Melbourne Airport allows for pre-booking by making available a kiosk space. More regular communication between the regulator, airport and industry groups is also needed to eradicate touting.

Recommendations

- 2.1 The policy of hire car licences being available for purchase at any time to approved applicants in the metropolitan hire car area should be extended to the country hire car area.
- 2.2 The restrictive public interest test currently applying to the issue process for country hire car licences should be removed. All new hire car licences – to be known as Pre-Booked Only (PBO) cabs – should be granted ‘as of right’ to approved applicants who wish to purchase them at set prices.

- 2.3** Separate metropolitan and country hire car zones should be abolished and new and existing licences should be authorised to operate a pre-booked service anywhere in the state.
- 2.4** A consolidated, uniform PBO licence should be adopted statewide and applied to all existing and newly issued licences. The licence should have a uniform set of conditions set in regulation, including that they are:
- Of no fixed term
 - Transferable
 - Non-assignable (the rights to operate the vehicle cannot be given to another party)
 - Restricted to pre-booked operation only.
- 2.5** PBO licences should be available for purchase by approved applicants at a one-off set price of \$40,000. The Essential Services Commission (ESC), with input from the Taxi Services Commission (TSC), should undertake a review of this price point after three years.
- 2.6** The current requirement for hire car licence holders to purchase a vehicle meeting the value of the luxury vehicle tax threshold should be removed.
- 2.7** All PBO drivers should continue to be required to be accredited and a new requirement added that they display their accredited driver ID prominently inside the vehicle.
- 2.8** PBOs should be easily identifiable to the public and regulators by a specific number plate prefix and a highly visible, prominent permanent sticker on the windscreen.
- 2.9** RH vehicles should remain a separate category and continue to be issued 'as of right' to approved applicants for a set fee.
- 2.10** All existing special purpose vehicles (SVs) should be reclassified as RH vehicles and therefore subject to the same licence terms and conditions. RH vehicle standards should remain unchanged.
- 2.11** The new RH licence should be subject to a one-off fee of \$2,000. RH licence holders should be registered with the TSC upon having satisfied basic entry requirements of proof of identity and a police check.

- 2.12** A more orderly approach should be adopted at Melbourne Airport to provide a smoother process of pick up and drop off of customers and to deal with the problem of touting, including:

- Making available rental space to a third party to provide a PBO booking kiosk
- Adequate parking facilities for PBO cabs
- A designated pick up area for drivers to meet customers.

- 2.13** The TSC should be given adequate powers to deal with unlicensed operators and vehicles touting for work.

- 2.14** Penalties for touting should be reviewed to ensure they provide sufficient deterrence to prevent illegal touting (touting by unlicensed, illegal operators) as well as touting by licensed PBOs who are operating outside of the conditions of their licence.

3. Additional zone changes

There are two major considerations in determining the specific boundaries of zones. These relate to the assurance of services in particular areas and the efficiency cost caused by dead-running across zone boundaries.

Where an existing zone is no longer necessary to ensure adequate service and is causing significant efficiency loss due to dead-running, there is a case to remove the zone. This is the basis of the inquiry's recommendation to incorporate the outer suburban zone into the Greater Melbourne zone. In some other cases, where service is unlikely to be provided without determining a specific zone and there is little efficiency loss from dead-running, it is appropriate to maintain a separate zone.

The more difficult cases are where the service and efficiency criteria are in conflict. For example, the inquiry considers this is likely to be the case in the Yarra Valley, where zoning clearly creates boundary problems. In these cases, there is a need for greater flexibility in the way zones operate: specifically, to allow some cross zonal work to reduce inefficiencies due to dead-running. The key focus should be on the provision of services that meet the needs of customers.

- 3.1** A shared Greater Melbourne and Geelong Urban zone should be defined in relation to Avalon Airport to allow Greater Melbourne taxis to service the airport (both pick up and drop off, including pre-booked and rank work) for customers who are bound for Melbourne. Separate Melbourne and Geelong ranks will need to be established at the airport to support this shared zone.

- 3.2 The TSC should have the power to review zones, through a public process, in response to emerging issues and changed market conditions and, if necessary, to extend zones or create overlapping zones. This may be particularly relevant for areas adjacent to Melbourne that are growing rapidly, as well as other areas of significant growth across Victoria.
- 3.3 The TSC's longer term objective should be to further rationalise and relax zone regulation, in light of changes in market structure and market forces that will ensure adequate service coverage.

4. More diverse and better vehicles

As discussed throughout this report, a range of problems are associated with the vehicles currently delivering taxi and hire car services. Many of these problems arise from the current framework for vehicle regulation being a complex mesh of national and state laws that is overly prescriptive, becomes outdated very quickly and is a barrier to innovation and to expanding into new markets.

The inquiry has found that a number of vehicle-related regulations impose significant costs on the industry and reduce its competitiveness, while delivering relatively few benefits in return. This includes the requirement for uniform livery, the ban on advertising on vehicles and the requirement to install specific in-cab equipment that has been superseded by new products and technologies.

Regulation covering the equipment required in taxi vehicles is also prescriptive rather than outcomes-based, making it difficult to administer and restricting taxi operators' choices in purchasing and installing equipment. It also tends to be set out on an item-by-item basis, with little consideration given to the implications of the interoperability of the entire package of devices installed in vehicles. This has contributed to a situation where the industry is failing to keep up with new vehicle and equipment technologies, including moving towards treating in-cab equipment as an integrated technology set and adopting innovations such as taximeters capable of voice transmitting elements of the fare and smartphone payment applications.

The application of current standards is also preventing Victorian taxi operators from choosing vehicles that are purpose built for accessibility and that are in use in other jurisdictions.

The inquiry has also found that the current luxury vehicle restrictions act as a barrier to entry to the hire car market, constrain growth in the market and restrict consumer choices.

The inquiry considers that regulation of vehicles can be made much simpler – and deliver significant benefits to industry and consumers – by moving away from prescriptive rules and allowing taxi and PBO permit holders much greater choice in the vehicles and equipment they use.

The inquiry's recommendations aim to deliver more diverse and more accessible vehicles across the commercial passenger vehicle fleet without compromising vehicle safety, standards and the distinctive look and professional image of taxis. They also aim to encourage greater brand distinction and competition between networks and businesses (Authorised Taxi Organisations (ATOs) under the inquiry's reforms). Alongside reforms to increase competition within and between the taxi and PBO sectors, these recommendations will generate greater choice for consumers and enable the industry to offer new services, expand into new markets and attract more customers.

Moving to outcomes-based regulation means that, as long as permit holders can demonstrate they are delivering the outcomes required by the regulator, they are free to choose the type and brand of equipment and systems they install in their vehicles.

Recommendations

- 4.1 The inquiry notes that proposed changes to the Australian Disability Standards for Accessible Public Transport (DSAPT), in respect of allocated space for wheelchairs in vehicles, will lead to undesirable outcomes for accessibility, vehicle quality and operator costs and recommends that they not be adopted.
- 4.2 The inquiry also notes that superior designed, purpose built, universally accessible taxi vehicles are used in overseas jurisdictions – for example, the London 'black cab' – and should be allowed to operate in the Victorian fleet. The inquiry recommends that more flexibility be incorporated into federal and state standards to allow these vehicles to be used in Victoria, including as WATs.
- 4.3 New outcomes-based vehicle standards should be developed for taxis and hire cars that allow for the use of wider range of vehicles offering better design, greater accessibility and improved fuel efficiency. These new standards should include a minimum requirement for all taxi and PBO vehicles to be compliant with Australian and Victorian vehicle-related legislation such as the Australian Design Rules, the *Victorian Road Safety Act 1986* and Road Worthy Certificate requirements.

- 4.4** Vehicle standards should set requirements for:
- Distinctive markings and features (enabling easy identification of the vehicle as a taxi or PBO cab), such as windshield stickers and/or distinctive licence plates, and require all vehicles to maintain a professional image
 - Larger, clearer displays of customer information inside the vehicle, such as in relation to fares, advising that safety cameras are in operation, and how to make a complaint.
- 4.5** Standards for taximeters should set the following requirements:
- Taximeters should include all components of the fare, including tolls.
 - Taximeters should have the functionality to voice transmit all components of the fare to customers.
 - Taximeters should be required to be accurate. Meters should be pattern tested, installed and verified by expert independent services providers in accordance with international and national standards.
 - The regulation of taximeters should be subject to regulation by the National Measurement Institute under the *Australian National Measurement Act 1960*.
- 4.6** All trip data should be transmitted directly from the vehicle to the TSC.
- 4.7** Permit holders should be permitted to have advertising on their taxi and/or PBO vehicles, subject to stringent rules set by the TSC in relation to size, placement, subject matter and other requirements.
- 4.8** No change should be made to vehicle age limits for taxis and PBOs at this time. The TSC should conduct further research into the influence of the age of vehicles on safety to determine whether to retain and/or amend age limits in the future.
- 4.9** The regulation covering dome lights should be amended to be more outcomes-focused. These outcomes should include automation of signaling linkages from taximeters to the dome light to show the accurate status of the taxi (hired or available). ATOs should be permitted to adopt their own dome light design consistent with the new regulation.

- 4.10** The inquiry notes that the regulation covering the colour of taxis could also be made more outcomes-focused to retain the requirements of distinctiveness and professional image, while also allowing for approved company branding. Specifically, the inquiry seeks feedback on the further possibility of:
- Removing the requirement for all regional and country zone taxis to have yellow livery (whether affiliated with an ATO or independent)
 - Allowing ATOs in the Greater Melbourne and urban zones to adopt their own distinctive liveries for their affiliated vehicles (subject to approval by the TSC)
 - Retaining the yellow livery requirement for all other vehicles in the Greater Melbourne and urban zones.
- 4.11** Victoria should seek the support of other Australian jurisdictions for a more cooperative national approach to vehicle standards. In particular, the Victorian Government should actively pursue:
- Greater consistency in vehicle regulations to assist manufacturers and importers in supplying more appropriate vehicles to the Australian taxi market as a whole (particularly in relation to wheelchair accessible vehicles)
 - Supporting the National Measurement Institute to take responsibility for regulating taximeters Australia-wide and working with jurisdictional taxi regulators to set appropriate national standards for meters.

5. More networks and more choices for taxi businesses

Network service providers (NSPs), or depots as they have been commonly known in the past, have had a significant role in coordinating the operations of taxi services in particular areas or zones. NSPs are able to take bookings and transmit these to operators so that maximum efficiency in the allocation of jobs can be achieved. NSPs can monitor vehicles in service and they provide a range of other important services, including providing and fitting equipment in vehicles and training drivers. NSPs can regulate their affiliated operators and drivers in various ways, subject to general laws. However, the inquiry has found significant concern that they have not done enough to ensure their operators and drivers provide good quality services for customers.

NSPs generally appear to have significant market power. They have few competitors and, in many cases, have no other competitors in their allocated zones. There appear to be significant economies achieved by having larger network size, but regulation has also contributed to high market concentration. Where firms have significant market power, this may be extended into other markets by vertical integration and other vertical relationships. Of particular concern in this regard, are the links between Cabcharge and one of the major metropolitan NSPs and the extension of NSP activities to in-vehicle equipment supply.

Operators have also expressed concerns about the level of NSP charges. While seemingly not excessive compared to similar organisations in other States, these charges are significant overall and cannot be avoided by operators who are required to affiliate with an NSP. Charges levied by NSPs do not reflect the benefit obtained by operators in terms of the number of jobs they provide. At the same time, the booking services provided by NSPs (particularly in the metropolitan area) while technically very efficient, have not operated in a manner that reflects the needs of customers for certainty and timeliness. NSPs have no legal responsibility for how the services they book are provided and little competitive stimulus to take great care.

The requirement for operators to affiliate with an NSP seems now to be only justified by the fact that the NSPs are able to monitor vehicles on the road, providing some assurance of safety to drivers. However, there may be other ways that this outcome could be achieved more efficiently by operators.

The inquiry considers that major reform to regulation affecting NSPs is required in order to improve performance. In particular, regulation that unnecessarily restricts competition needs to be removed. This includes unnecessary accreditation and zoning restrictions. The inquiry also considers that the mandatory requirement for operators to affiliate to an NSP should be removed. These changes are not expected to have dramatic short term effects on the industry. Most operators will probably still choose to affiliate with an NSP and new NSPs may only slowly emerge. However, NSPs and other types of approved service groupings (ATOs under the inquiry's reforms) will be subject to greater contestability from potential entrants, and operators will have increased bargaining power in relation to ATOs. More efficient pricing of ATO services is likely to follow.

An important consideration in relation to the recommendation for removal of mandatory affiliation has been the decision not to recommend the adoption of a full open market for licences. With a full open market, the opportunity to establish new ATOs would be much greater than otherwise. With entry that will be restricted by price, as proposed, it will be important that existing operators are not unduly constrained in being able to move between ATOs or join new ATOs.

A consideration in relation to NSPs has been whether to adopt more radical structural reforms to achieve greater competition. Given the existence of network economies and economies of scale, there is a case for the establishment of monopoly booking services vertically separated from upstream and downstream activities of the industry or subject to access arrangements. This would allow the monopoly segment of the industry to be appropriately regulated and competition in the other industry segments not to be distorted.

On balance, the inquiry has not followed this path as it considers it more appropriate to remove directly the regulatory restrictions resulting in market power and to allow for as much contestability of services as possible. The inquiry is also of the view that there are limited efficiency gains to be achieved by further consolidation of booking services in the metropolitan area. However, the exception to this is in relation to wheelchair accessible services where consolidation of bookings under one network is likely to provide significant efficiency benefits, as well as service improvements for customers (see Recommendation 10.1).

The inquiry considers that there has been regulatory and public confusion as to the role of NSPs in ensuring appropriate standards of service and safety. Industry accreditation has failed in this area. ATOs should have clear legal responsibility for the services provided under their brands and be required to adopt measures to ensure appropriate service performance is achieved. The TSC will need to both monitor and support ATOs in this endeavour; however, the TSC's own regulatory focus should primarily be on safety. The inquiry notes that stronger competitive pressures will work in conjunction with better targeted self-regulation to help drive ATO service improvement.

Recommendations

- 5.1** All taxi permit holders, regardless of whether or not they are affiliated to an ATO, must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.

- 5.2** Persons permitted to provide taxi and/or PBO services should be able to choose to operate independently or affiliate with one or more approved ATOs. Regardless of this decision, all permit holders should retain responsibility directly to consumers for the services they provide.
- 5.3** Entry requirements and approval for ATOs should be minimal to reduce the regulatory burden and compliance costs on these organisations and encourage new entrants and competitors to existing networks. Approval criteria for ATOs should centre on:
- A minimum fleet size of 20 vehicles and capacity to provide 24/7 service (with the TSC having the discretion to approve lower ATO fleet numbers in urban, regional and country zones)
 - Identification of the responsible person or persons of the ATO, with each person having to satisfy requirements of a character check, national police check and proof of identity
 - Capacity to adhere to operating rules setting out minimum service and other requirements (see Recommendation 9.8).
- 5.4** Existing taxi licence conditions that require the licensed taxi vehicle to be operated under control of an approved depot *physically located in their specified zone* should be removed.
- 5.5** ATOs should be required to provide regular reports on service performance as requested by the TSC.
- 5.6** The TSC should publish details of service performance in a way that is widely accessible in order to assist consumers in making informed decisions.

Country and regional services

As discussed throughout this report – and highlighted in chapter 16 – distinctive circumstances and characteristics apply to the taxi and hire car markets in country and regional areas of Victoria. While endeavouring to streamline the regulation of commercial passenger vehicles statewide, the inquiry has also drafted its reform proposals to take account of these distinctive features.

The inquiry is recommending the removal of restrictive regulations that have constrained the ability for new entry and more flexible and affordable services in country and regional markets. In particular, the inquiry is proposing that the public interest test applying to country taxi and PBO licences be removed. This means that all new licences in regional Victoria will be issued ‘as of right’ to approved applicants who wish to purchase them, with no requirement for the regulator to form a view about whether new licences are in the public interest. This will leave the decision about entering the market to those best placed to make the commercial judgement about whether they can operate a service profitably in a particular area. Over time, this should lead to a better matching of supply with demand for services, increasing the availability and range of services in many country areas.

The inquiry is also seeking to remove unnecessary costs on permit holders and to create revenue opportunities for businesses to grow. For example, in the country and regional zones it should be possible to introduce a price notification system once the new licensing policy is implemented, allowing permit holders and ATOs to adjust fares to local conditions. Permitting taxis and PBOs to carry advertising on their vehicles will be particularly beneficial to country permit holders, providing them with an additional source of revenue. The possibility of removing the requirement for regional and country taxis to be yellow has also been proposed, and would be a significant cost saving. The removal of barriers to taxis operating more flexible shared ride, flat fee and set route – or ‘taxi-bus’ – services will open up new point-to-point options in country locations with limited public transport services. The proposed expansion of the Multi Purpose Taxi Program to include older people aged 80 and above who have their private vehicle driving licences suspended by VicRoads will present another opportunity for country and regional taxi permit holders and drivers.

These and other changes will put greater control in the hands of country operators and ATOs to tailor their services and prices, promoting flexibility, innovation and choice.

Restore trust

Service standards and driver quality will improve through the introduction of a new permit system for taxi and PBO operators and better training, testing and remuneration of taxi drivers. ATOs will be directly responsible for the services their members provide; information about service performance will be readily available to consumers; and there will be clear avenues to resolve complaints.

6. Better quality drivers

It is very clear to the inquiry that the critical element in a satisfactory taxi or hire car experience is the quality of the driver. Satisfaction with taxi drivers in Victoria is low, with many concerns raised with the inquiry about a decline in driver quality, knowledge and standards of behaviour. As discussed in chapter 13, the inquiry considers that improving driver quality should be a top priority for the taxi industry, with the aim of improving taxi services and increasing demand for these services.

The inquiry's recommendations aim to deliver better quality drivers over time and contribute to restoring the community's confidence and trust in the taxi industry.

In relation to driver entry and training requirements, the inquiry is of the view that the right balance must be struck between experience and training to deliver a supply of drivers who will meet reasonable community expectations. The inquiry's proposed requirement that all applicants for driver accreditation have held a Victorian Driver Licence for a minimum of 12 months prior to the issue of accreditation aims to ensure that drivers have a minimum level of experience.

The inquiry has found that the current training curriculum for taxi drivers is generally adequate, but that better oversight of training by the relevant Registered Training Organisations (RTOs) and an independent examination of new drivers are required. The introduction of an independent driver proficiency exam as a compulsory requirement in the Greater Melbourne zone – to be known as the 'Greater Melbourne Knowledge' – will ensure that new drivers are properly competent and job ready.

While recognising that training is an important element in building the pool of quality drivers, the inquiry's strong view is that the most critical factor is increasing drivers' remuneration and improving their working conditions. The inquiry acknowledges the difficulties involved in improving driver pay and conditions, but believes that efforts can and should be made to overcome these difficulties over time. In doing so, the inquiry repeats its observation that the industry has done very little to improve its ability to attract and retain good drivers, preferring to rely and actively promote a continual flow of temporary drivers with little regard for the circumstances of these drivers or the service implications of high driver turnover for the community.

The inquiry's licensing reforms will make new taxi and PBO licences available for purchase from the Government at set prices with annual payment, significantly lowering the barrier to entry. This significant change is expected to result in major structural change in the industry over time, giving drivers a clear path to purchasing and operating their own taxi and/or PBO businesses.

Fundamental change is also recommended to the existing basis on which drivers are engaged by permit holders. This is vitally important for those drivers who do not wish to own/operate a licence/vehicle. While an increase in owner-drivers should occur over time under the inquiry's reforms, there will continue to be a need to ensure a supply of high quality drivers to meet community and customer expectations.

The inquiry has considered in detail a range of alternative approaches to address driver quality, including the legal, economic and practical considerations involved. The inquiry is convinced that the only way to ultimately achieve sustained reform is to move away from the current bailment arrangements to a fairer system. Accordingly, the inquiry is proposing a new mandatory Driver Agreement that must be entered into by all taxi permit holders and drivers. The Agreement will replace all existing bailment arrangements and contain minimum terms, conditions and payment arrangements published by the Victorian Government. The Agreement will include conditions such as Occupational Health and Safety responsibilities, insurance obligations, service standards required of the driver and dispute resolution mechanisms.

The inquiry is proposing to establish a better revenue sharing arrangement for drivers within the Driver Agreement. A minimum percentage is recommended of no less than 60 per cent of the fare box revenue that must be paid to the driver. An alternative to establishing a minimum hourly rate for the hours drivers work in peak and non-peak times, or possibly allowing drivers and permit holders to choose between either a specified minimum percentage of fare box revenue or minimum hourly rates when entering into the Driver Agreement, is also outlined. The inquiry welcomes the views of industry and stakeholders on these further options.

The inquiry has been mindful of the fact that, because driver remuneration has been forced to such low levels under the current system, there is a practical issue of how taxi permit holders will be able to afford to pay higher remuneration for drivers. The inquiry has made a number of recommendations that directly seek to enhance the viability of taxi permit holders and lower their costs, boost demand for taxi services and make it possible for them to pay their drivers more. Ultimately, this will be dependent upon how well the industry as a whole performs. The inquiry notes that there is a virtuous circle here: better remuneration will improve driver supply, create more competition for shifts and lead to a higher standard of driver, which will in turn help to build customer confidence and demand and the capacity of permit holders to meet the costs associated with employing better quality drivers.

With these points in mind, if the minimum share of fare box revenue is adopted, the inquiry considers that a rise from the current industry practice of 50 per cent paid to the driver to a minimum of 60 per cent strikes a reasonable balance between affordability and the interests of drivers – and ultimately passengers.

The move to a Driver Agreement is a crucial element in the package of reforms being proposed by the inquiry. Improving driver pay and conditions is critical to attracting and retaining quality drivers and addressing a major concern Victorians have about taxi services. The inquiry recommends that, in year five of the reform implementation program, the TSC review the continuing necessity of the Driver Agreement. At this point, the TSC should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with employment arrangements, as well as growth in numbers of owner-drivers and other indicators of industry retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions, the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

Recommendations

Driver entry and training

- 6.1** Taxi and PBO driver entry requirements should be adjusted to remove the ability of applicants to undertake an Independent Driving Assessment in lieu of having held a Victorian Driver Licence for 12 months. The requirement should be for all applicants for driver accreditation to have held a Victorian Driver Licence for a minimum 12 month period.

- 6.2** Audits of all RTOs delivering the taxi driver training course in metropolitan Melbourne should be conducted by the training regulators, the Victorian Registrations and Qualifications Authority and the Australian Skills Quality Authority, on a regular basis, facilitated by the TSC to provide specialist expertise.
- 6.3** Examination of new drivers should be undertaken independently of the RTOs. The new independent exam should be known as the 'Greater Melbourne Knowledge' and could be administered directly by the TSC or under contract to a third party.
- 6.4** The independent exam should be compulsory for all new taxi drivers intending to drive in the Greater Melbourne zone, as the final step required before obtaining accreditation. The examination should assess applicants against the competencies of the taxi driver training course.
- 6.5** RTOs, the TSC and disability advocacy groups should work together to develop materials to enhance the current delivery of disability awareness training (within the *Provide Taxicab Customer Service* unit of the taxi driver training course) to ensure that training remains relevant and that new drivers are provided with exposure to and awareness of the needs of a wide range of customers.
- 6.6** The requirement for metropolitan drivers to undertake the full taxi driver training course should be replaced with a new requirement that all Greater Melbourne drivers must demonstrate competency against units of the taxi driver training course by successfully passing the independent examination.
- 6.7** The requirement for any driver intending to drive a WAT in any part of the state to complete the stand-alone unit of the taxi driver training course, *Provide Wheelchair Accessible Taxi Services to Passengers with Disabilities*, and pass an assessment of this unit conducted by an RTO assessor, should be continued.
- 6.8** The inquiry considers subsidising WAT training to be unnecessary given the range of other incentives (for example the lifting fee and higher occupancy fee) in place to ensure there are sufficient numbers of WAT drivers. However, in country and regional areas, the subsidy provided to unit assessors should continue, to support the costs of these assessors travelling to test WAT driver applicants.

- 6.9** Taxi driver applicants seeking accreditation to drive in the urban, regional and country zones should continue to have the option (rather than be required) to complete the taxi driver training course with an RTO. Taxi permit holders in these zones should be required to ensure the adequate training of their drivers, either through delivery of their own induction and training programs or by choosing to send drivers to all or part of the taxi driver training course.
- 6.10** The practice of the industry mentoring new drivers 'on the job', which currently occurs predominantly in country Victoria, should be encouraged providing the industry develops and implements appropriate guidelines for managing in-car training (for example, informing customers of the presence of a second driver who is providing in-car mentoring at the time of booking or when a customer is selecting a taxi from a rank). These guidelines should be approved by the TSC.
- 6.11** PBO permit holders should be required to ensure the adequate training of their drivers via either delivery of their own induction and training program or by choosing to send drivers to all or part of the taxi driver training course (as is the case now for holders of SV and RH licences). The mandatory requirement currently in place for metropolitan hire car drivers to undergo the taxi driver training course should be removed and PBO drivers should not be required to sit the independent exam.

Driver pay and conditions

- 6.12** Driver career structure, remuneration and conditions should be improved by making new licences available at affordable prices (giving drivers the opportunity to run their own taxi business, as set out in Recommendations 1.1 to 1.5) and introducing a new mandatory Driver Agreement that provides for more appropriate terms and conditions for drivers (as set out below).
- 6.13** Bailment agreements should be replaced with a fairer Driver Agreement for drivers who are engaged by permit holders to drive their vehicles. New legislation should be passed to require all permit holders to engage taxi drivers under the new Driver Agreement (unless the drivers are otherwise engaged as employees).

- 6.14** The Driver Agreement should provide a better revenue sharing arrangement for drivers by establishing a minimum percentage of 60 per cent of the fare box revenue to be provided to the driver.

- 6.15** Provisions that should be included in the new Driver Agreement include:
- The driver must be paid a share of the fare box of no less than 60 per cent
 - The driver must be allowed to take up to four weeks unpaid leave where she/ he has worked regularly for 12 months or more for the permit holder
 - The permit holder must maintain a third party property insurance policy. The driver must be indemnified by the permit holder for any vehicle damage, but if an excess is charged to the permit holder and the driver is at fault, the driver may be required to pay the excess
 - The service standards with which the driver must comply
 - The costs (e.g. LPG) that must be paid for by each party
 - The basis on which either party may end the agreement
 - Dispute resolution mechanisms including a role for the Victorian Small Business Commissioner (VSBC) and the Victorian Civil and Administrative Tribunal (VCAT).

- 6.16** The inquiry also seeks feedback on a further two possible options to establish a 'safety net' income within the Driver Agreement:

- Introduce a minimum hourly rate for peak and non-peak hours of work. Peak time should be limited to 10pm Fridays to 5am Saturdays, and 10pm Saturdays to 5am Sundays, and all other times should be designated non-peak hours. Under this option the rate will be set at \$28 per hour for peak hours and \$16 per hour for non-peak hours. This arrangement does not preclude an alternative revenue share arrangement, so long as this results in earnings of no less than the minimum hourly rates.
- Allow permit holders and drivers to choose between either the minimum hourly rate for peak and non-peak hours of work, or the minimum percentage of the fare box revenue to the driver, when they enter into the Driver Agreement.

- 6.17** The Victorian Government should amend the *Accident Compensation Act 1985* to make clear that a taxi driver engaged under a Driver Agreement is deemed to be a worker for the purposes of the Act and the *Accident Compensation (Workcover Insurance) Act 1993*. Worksafe Victoria, together with the TSC, should implement strategies to better inform industry participants about their rights and obligations under these Acts.
- 6.18** The Victorian Government should amend the *Occupational Health and Safety Act 2004* to ensure that taxi drivers are owed a general duty of care by any person that has engaged them in their business.
- 6.19** Consumer Affairs Victoria (CAV) should ensure that taxi clubs comply with the provisions of the *Associations Incorporation Act 1981*, when they are registered under the Act. CAV should liaise with the TSC in relation to the regulation of taxi clubs under the Act and other general consumer legislation.
- 6.20** Disputes between drivers (or representatives acting on behalf of drivers) and permit holders in relation to a Driver Agreement should in the first instance be dealt with by the Office of the VSBC. Disputes could be referred to VCAT for determination if they cannot be resolved by the VSBC.
- 6.21** The TSC, at its discretion, should be able to bring proceedings before VCAT or a court to enforce the terms of a Driver Agreement.
- 6.22** The TSC should undertake a review in year five of the reform implementation program to examine the continuing necessity of the Driver Agreement. The review should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with employment arrangements, as well as growth in numbers of owner-drivers and other indicators of industry retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

Properly insured taxis

- 6.23** Legislation should be drafted and enacted to require a permit holder to have a policy of insurance covering third party damage arising out of the use of the permit holder's taxi. The policy should:
- Be issued by a corporation authorised under the *Insurance Act 1973* (Cth) to carry on an insurance business
 - Provide sufficient cover in the opinion of the TSC.
- 6.24** Legislation should be drafted and enacted to require a permit holder to indemnify his or her driver/s in relation to any vehicle damage arising out of the use of the permit holder's taxi. But if an excess is charged to the permit holder and the driver is at fault, the driver may be required to pay the excess.

7. Improved safety for customers and drivers

The inquiry has found that the safety aspect of taxi and hire car services is complex and multi-faceted, encompassing driver and passenger behaviour, vehicle safety, the effectiveness of protective measures such as cameras and emergency alarm systems, alcohol-fuelled anti-social behaviour in particular 'hot spots' and uneven relationships between the taxi industry and Victoria Police.

As the delivery of taxi and hire car services necessarily involves the operation of motor vehicles, general road-use risks are inherent. From this perspective, driver skills and vehicle roadworthiness are of critical importance to the safety of drivers, passengers and other road users.

The nature of these services – where drivers and passengers interact within the relatively small space of a vehicle – raises the possibility that inappropriate behaviour by either of the parties may occur. Taxi-ranks are another site where anti-social behaviour may arise.

While the industry has developed some strategies for protecting the welfare of drivers, it is generally accepted and expected by the Victorian community that government take some degree of responsibility for protecting the safety of taxi drivers and passengers. Regulatory measures that have been taken to meet these responsibilities have included:

- Enforcing taxi vehicle roadworthiness through setting specific commercial passenger vehicle standards and having the regulator carry out regular compliance checks and monitoring activities

- Making emergency warning devices (and their monitoring by NSPs) compulsory in taxis
- Establishing standards relating to driver competency and suitability
- Requiring that certain safety-related equipment be installed in vehicles (such as safety cameras) or be made available to drivers (such as driver protection screens).

The inquiry has found that these measures have had varying degrees of success. Most have been introduced in a relatively ad hoc manner over time as developments in technology have permitted and public expectations regarding safety have increased. Safety initiatives have often been reactive following particular incidents and, because measures have always had to fit within current operational realities, the industry regulator has not developed a wholly cohesive safety regime that can deliver optimal safety at minimal cost. Some safety measures appear to have undergone very limited, if any, assessment of their costs and benefits before imposing them on industry, often at considerable expense.

Passenger safety in taxi services has another dimension, with drivers expected to adhere to additional requirements such as ensuring that wheelchairs and wheelchair users are properly restrained. Conversely, perceived logistical difficulties have led to taxi services being exempt from meeting the same safety requirements relating to carrying children in vehicles that are imposed on users of all other motor vehicles.

The inquiry's proposed move away from prescriptive regulation towards an outcomes-based approach will also apply to safety. This will mean that operators and drivers have more choice about how they achieve safety-related outcomes, but that these outcomes – and the efficacy of existing and future safety measures – will be heavily scrutinised and closely monitored.

Recommendations

- 7.1** Regulatory impact assessments should be completed as a mandatory requirement before decisions are taken in relation to the implementation of safety initiatives in the commercial passenger vehicle industry.
- 7.2** Where possible, safety measures should be outcomes-focused rather than prescriptive. The TSC should undertake research into the performance of current initiatives and other potential safety-related measures and provide advice to the Department of Transport (DOT) as necessary.

- 7.3** There should be an immediate moratorium on the roll out of the new taxi safety cameras while the inquiry's report is being considered. In this period, a cost and benefit assessment of applying the new camera standard in country Victoria should be undertaken. More generally, the specifications set for this camera should be reviewed against appropriate benchmarks. The target date for completing this work should be the end of 2012.

- 7.4** The requirement for driver protection screens should remain in place in the short term, but should be reviewed after three years to consider the impact and performance of other safety measures that may obviate the need for screens. Some of these will arise from the implementation of the inquiry's reforms, such as the imposing of Occupational Health and Safety (OHS) duties on permit holders and the extent of take up of purpose built taxi vehicles with in-built safety measures.

- 7.5** The exemption for Victorian taxis and hire cars from the mandatory use of child restraints for children aged one year or older but less than seven years should be removed. The taxi and PBO industry should be responsible for managing the operational and service issues associated with supplying appropriate child restraints for passengers. ATOs and permit holders should be able to levy reasonable charges for child restraints where not provided by the passenger.

- 7.6** The DOT, with coordinated involvement from the TSC and other stakeholders such as Victoria Police, local councils, liquor licensees and taxi industry representatives, should develop guidelines on establishing and operating safe taxi ranks, including addressing issues relating to:

- Physical design and infrastructure needs
- Operational requirements such as supervision and CCTV
- Management of rank space for an expanded range of services
- The differing requirements for inner city, suburban and regional safe ranks
- Clarity of funding arrangements for the ongoing investment in and sustainability of safe ranks.

The inquiry notes the difficulties experienced by local councils in funding the ongoing operations of safe ranks. As part of the development of these statewide guidelines, consideration should be given to developing policies for safe rank funding options including user pays, an accord between beneficiaries of safe ranks to share costs, and directing some of the revenue from the sale of taxi licences to supporting safe ranks.

8. Empowering consumers

The number of people and firms involved, and their overlapping responsibilities, makes it confusing for consumers to identify who is responsible for delivering taxi and hire car services, direct a complaint about poor service to the appropriate place or evaluate the performance of different service providers. The absence of easily accessible, up to date, centrally available information also hampers monitoring and enforcement activity and results in unnecessary administrative burdens for government agencies, as well as private firms that deal with taxi and hire car matters.

Providing consumers with more information about the industry and its performance will help to address the imbalance in information between taxi operators and consumers that is a key cause of market failure in taxi services. Consumers are commonly unaware of who is operating and responsible for taxi services, where to direct inquiries and complaints, and how to find information about service quality, performance and price – either before they get into the taxi (such as prior to making a booking) or when travelling in the vehicle. Regulation that promotes a uniform service and image further hinders service differentiation by permit holders and ATOs and their capacity to signal to consumers higher levels of quality.

The inquiry's recommendations aim to provide consumers with ready access to information about the industry and to ultimately link this information with performance data.

Where and how complaints regarding taxi and PBO services are dealt with is particularly problematic. The inquiry has identified that a large proportion of consumers do not know where or how to lodge a complaint and that there is a strong public perception that complaints handling within the industry and by the regulator is difficult to access, inadequate and ineffective.

The inquiry's recommendations aim to provide clarity to consumers about where and how to make a complaint, delineate responsibility for addressing complaints within the industry and improve accountability for following up and resolving complaints. A much stronger role for the regulator in providing information to consumers to help them make more informed choices is also proposed.

These proposals link to other, more fundamental changes proposed for the role of ATOs and the regulator. As a consequence, the inquiry has not considered it necessary to recommend an industry ombudsman at this time.

Recommendations

Public Register of industry participants

- 8.1 The TSC should establish a Public Register of industry participants and make the register available on its website. The register should comprise the names of all approved drivers, permit holders and ATOs in the commercial passenger vehicle industry, and give information about their business contact details, the services they operate (such as taxis, PBOs and/or WATs) and the numbers of vehicles attached to their permit. The public register should be updated in real time as new entrants are granted permits and/or issued licences.
- 8.2 Requirements for in-vehicle information (such as windshield stickers, placards and other signage) should be compatible with smartphone technology, such as the inclusion of a barcode that can be scanned by mobile phone and other portable devices. The TSC should take steps to ensure that, through this technology, passengers have direct access to the Public Register from the vehicle and, over time, access to information about service performance and driver quality.

Improving information and complaints services

- 8.3 The TSC should take a strong role in providing information services, advice and assistance to consumers to enable them to make informed choices. Provision of consumer information and education about the expansion of services (such as shared ride and flexible services and an expanded pre-booked market through the introduction of PBOs) should be a strong focus of the TSC in the early years of reform implementation.
- 8.4 The TSC should conduct consumer research, including 'mystery shopper' inspections of services and waiting time surveys, on a regular basis and publish the results on its website.
- 8.5 Complaints about service delivery should be primarily the responsibility of service providers (ATOs and permit holders) who will need to have appropriate procedures in place that are readily accessible to all members of the community. The TSC should monitor and report on the industry's complaints management performance and work cooperatively with ATOs to achieve desired performance outcomes.
- 8.6 The TSC should have clear and transparent policies and procedures relating to complaints about its own performance.

9. A new system of approval and responsibility for service

As the inquiry has observed repeatedly throughout this draft report, the existing regulatory regime governing taxis and hire cars in Victoria is a complex and prescriptive one that imposes a vast array of requirements on taxi and hire car licence holders, operators, drivers and NSPs and that incorporates legislation, licensing and licensing conditions, the industry accreditation scheme, Business and Service Standards, vehicle and equipment specifications and record-keeping requirements.

Rather than creating accountability for the delivery of service standards, the current regime contributes to considerable confusion amongst industry participants, enables responsibilities for service to be avoided and results in poor outcomes for taxi users.

There is general agreement within the industry and government that the regime is far from 'best practice' and the inquiry has found that the compliance costs associated with the existing regulations contribute considerably to the operating costs for taxi and hire car operators without delivering measurable benefits. The inquiry is proposing a significant overhaul of the regulatory regime and is recommending that elements of the regime be repealed. Two approaches are critical to this overhaul: first, the inquiry is proposing a new streamlined process that will clarify accountability for the delivery of services. Secondly, the inquiry is recommending a stronger emphasis be placed on outcomes-based regulation, which will require clear outcomes to be achieved, but allow industry to choose how to deliver these outcomes.

The new permit holder scheme will elevate responsibilities for service delivery to the organisation or individual that operates the taxi and/or PBO. This new system will encourage greater competition between the suppliers of services and give them greater flexibility to offer customers quality services and products. Permit holders will be permitted to hold both taxi and PBO licences and, once approved as a permit holder, will be able to purchase any number of licences they wish. They will not be able to assign their responsibilities for these services to another party. The new system should provide permit holders with the opportunity to expand and diversify their businesses by combining different service offerings and developing new products that appeal to existing customers or cater to new markets.

Over time, these measures should increase the number of owner-permit holders in the industry, firmly fix responsibility for service delivery at the permit holder (operator) level and clarify that existing licences (conventional and WAT) that can be assigned are held for investment purposes only, not for directly operating a taxi or PBO.

Recommendations

- 9.1** The current taxi industry accreditation scheme, which requires the accreditation of licence holders, operators and NSPs, should be replaced with a new and more streamlined regulatory process that:
- Removes accreditation for licence holders
 - Replaces accreditation of operators with a permit system
 - Replaces accreditation of network service providers with an approval process for ATOs.
- 9.2** Existing taxi licence holders who have assigned their licence to an accredited operator under the current scheme should be allowed to continue to do so and not be required to obtain a permit. Licence holders and any relevant parties under the licence will be required to maintain up to date basic details (such as a name and business contact details) with the TSC for the Public Register (Recommendation 8.1).
- 9.3** Persons who have obtained accreditation as a taxi operator or who have been granted a hire car licence under the existing scheme should be deemed to meet the new requirements and issued with permit/s automatically.
- 9.4** Under the new approach, a permit should be issued to applicants who wish to operate a commercial passenger vehicle service (taxi and/or PBO service) and who satisfy the requirements of a character check, proof of identity and national police check.
- 9.5** Permit holders, once approved, should be able to purchase any number of taxi and/or PBO licences they wish.
- 9.6** Permit holders should not be able to assign the rights of any new licences they purchase that are issued directly from the TSC. Therefore, they will be responsible for meeting the service standards applicable to their vehicles and the drivers they engage.
- 9.7** Service responsibilities that are currently imposed on licensees, operators and NSPs (under legislation, regulation and licence conditions) and under the taxi accreditation scheme (via accreditation regulations, conditions and Business and Service Standards) should be streamlined and duplication removed.

- 9.8** In addition to the entry requirements for ATOs outlined in Recommendation 5.3, minimum operating rules set out in regulation for ATOs should include that they:
- Actively monitor the performance of affiliated permit holders and drivers to ensure they adhere to appropriate safety and service standards
 - Implement customer complaint handling procedures in accordance with approved standards
 - Implement disciplinary procedures in relation to permit holders and/or drivers who fail to adhere to designated standards
 - Provide specified service delivery data to the TSC (for example, in relation to booking performance, fares, driver infringements and complaints) on all booked, rank and hail work provided by their affiliated fleet.
- 9.9** ATOs should be made subject to the consumer guarantee provisions of the Australian Consumer Law. The TSC should liaise closely with the Director of Consumer Affairs in relation to the enforcement of the ACL more generally in the taxi and hire car industries.
- 9.10** In addition to the requirements proposed in Recommendation 5.1, the regulatory requirements for permit holders who opt to operate independently (not affiliated to an ATO) should include that they:
- Implement customer complaint handling procedures that are in line with approved standards
 - Display their business name and telephone number prominently on the exterior and interior of their vehicles.
- 9.11** The TSC should focus a large part of its compliance activities in relation to service and safety performance on independent permit holders (given the absence of ATO oversight of independent permit holders).
- 9.12** Discussions about rationalising the regulation currently affecting NSPs, involving the Victorian Taxi Association, existing NSPs and other relevant parties, should continue as a matter of priority, with a view to reducing unnecessary or duplicative regulation and streamlining the law to be applied to ATOs as quickly as possible.

10. More accessible services

The inquiry received many submissions, letters and comments from taxi users with a disability, their families, carers and advocates, and disability service providers. It is clear to the inquiry that taxi services play a vitally important part in the lives and wellbeing of many people with a disability. Unfortunately, it is equally clear that people with a disability experience poor and unreliable taxi services more frequently and with more serious consequences than other taxi users in the community.

While there have been real improvements in some areas, the inquiry has identified significant concerns about service, as discussed in chapter 15. In particular, poor reliability and long wait times remain widespread concerns for taxi users with a disability, especially those who use a wheelchair and require a WAT. The performance of the metropolitan booking companies is poor and many taxi users with a disability have lost confidence in the booking system, preferring to rely instead on private arrangements with known drivers or secondary networks. The WAT Performance Based Booking System has not made significant inroads into wait times in Melbourne and the substantial incentive payments made by the Victorian Government to NSPs under the scheme is not achieving sufficiently strong results to justify its cost.

Problems with the accessibility of vehicles for people with reduced mobility were also highlighted to the inquiry.

While the inquiry's general recommendations should greatly benefit taxi users with reduced mobility, targeted government intervention to improve the accessibility of taxi services needs to continue: the inquiry's conclusion is that the market alone is unlikely to provide a safe, reliable and affordable service to its more vulnerable users. In some areas, the inquiry considers that very specific actions need to be taken to restore confidence in the use of WATs, especially in relation to booking through NSPs.

The inquiry also considers that the accumulation of current regulations, grants, incentive payments and subsidies to support the provision WATs and subsidised taxi travel for consumers with a disability has become multi-layered, confusing, restrictive and in some cases, ineffective. The inquiry is proposing that some of these regulations be removed; in other areas, the inquiry is recommending the adoption of new solutions.

The inquiry notes that the number of WATs within the metropolitan taxi fleet appears to be sufficient – the problem is that these vehicles are not being organised and operated effectively. Better use of network services, more innovative use of WAT vehicles and more comfortable WAT vehicles for non-wheelchair users could all improve the profitability of WAT operations and the availability of WATs to those customers who need them the most. The inquiry also notes that the more flexible use of taxis, including share rides and taxi-buses, should provide opportunities for reducing the cost of taxi travel for people with reduced mobility (see Recommendations 12.1 to 12.6).

Recommendations

- 10.1** A central booking service should be established for the Greater Melbourne zone to provide easier, more reliable booking of WATs.
- 10.2** The central booking service should provide a common phone number for users to book a WAT. The services should be connected to all WAT vehicles operating in the zone in order to pass confirmed bookings and estimated wait times seamlessly to customers.
- 10.3** It should be mandatory for all WAT vehicles to be affiliated to the central booking service and to accept bookings from that service. WAT permit holders should be free to choose to affiliate to an ATO as well, but should be required to always prioritise WAT bookings they receive from the central service.
- 10.4** The central booking service should operate under contract to the TSC and be required to provide performance data on a regular basis. The TSC should regularly report the performance results of the central booking service.
- 10.5** The current contract between the DOT and major NSPs in the Greater Melbourne zone for the WAT Performance Based Booking System should be terminated and incentive payments made under that contract redirected to fund the central booking system.
- 10.6** Current arrangements under the WAT Performance Based Booking Service in Urban, Regional and Country zones should continue for the immediate future and be reviewed by the TSC in light of changes in market structure in these zones over time.

- 10.7** The Multi Purpose Taxi Program (MPTP) should be expanded to provide the subsidy to individuals aged 80 years or over (subject to a means test) who have their private vehicle driving licences suspended by VicRoads as a result of a fitness to drive assessment. In addition, if the scheme is extended to people aged over 80 whose licence is suspended, the inquiry is interested in comments on whether this should also include those who voluntarily offer to have their licences suspended or have them lapse, and those aged over 80 years who have not got a licence or access to a vehicle.
- 10.8** The \$16.50 card replacement fee currently charged to MPTP members should be reduced to \$8, with provision to be waived in particular cases of hardship.
- 10.9** All MPTP members should be provided with a Public Transport Access Travel Pass, providing them with fully subsidised travel on Melbourne metropolitan trains, trams and buses, regional town buses and other regional transport services contracted by the DOT.
- 10.10** The WAT vehicle subsidy scheme currently available only to country and regional operators should be retained. The subsidy should be targeted specifically to applicants who can demonstrate a need for a WAT service where other public transport services are limited or not available.
- 10.11** Current licence conditions for all taxis that are wheelchair accessible should be aligned, including that they are accountable for meeting minimum performance obligations in the carriage of people in wheelchairs.
- 10.12** Only high-occupancy vehicles should be required to have space for two wheelchairs.
- 10.13** The DOT, with input from the TSC, should work with other government departments, including the Departments of Premier and Cabinet, Treasury and Finance, Planning and Community Development and Human Services, to consider how the MPTP subsidy can best be targeted in future, in the context of the Victorian Government's recently commenced review of the Community Transport Program and the Federal Government's announced intentions for a National Disability Insurance Scheme.

11. Improved regulation and a more effective regulator

The inquiry is proposing a fresh approach to restore public trust and industry confidence in the regulation of the taxi and hire car industry. The inquiry's recommendations aim to generate a fundamental shift in the focus of regulation, with a stronger emphasis on industry self-regulation (especially for service provision) and competition and a move away from burdensome government regulation. However, this is not a blanket approach and there are areas where the inquiry is strongly of the view that government regulation needs to be tightened up and made more effective. In particular, government must have a strong regard for matters of safety, accessibility, consumer empowerment and driver remuneration.

To be effective, regulation needs more than just good regulations. It also requires a good regulator, one with good governance arrangements, skilled and experienced people, appropriate funding and effective practices. The inquiry's vision for the new regulator is to establish from the outset a body that is clear about its task and how it should proceed, and can undertake its task with expertise and integrity. It should be fair and honest in its dealings with all stakeholders. It should be able to draw on accurate industry data to provide sound regulatory decisions. In carrying out its activities, it should embody the methods and processes of a regulator charged with administering an outcomes-based regulatory regime, and develop and implement processes that maximise the benefits from this framework.

The Victorian Government has already established the Taxi Services Commission (TSC) to become the new regulator following the outcomes of, and the Government's response to, the inquiry. It has been set up to be an independent body overseen by a multi-member commission. The inquiry endorses this approach, but considers that more should be done to ensure the regulator's impartiality, accountability and effectiveness when it assumes the regulator role.

The legislation around the establishment of the new regulator includes a post inquiry review of regulation to be undertaken by the DOT. This will consider how the regulation operates in practice and examine ways to make it as simple and transparent as possible. The inquiry considers that the review should not only incorporate specific changes to the regulations recommended by the inquiry, but also address the way in which regulation is developed and enforced. This includes, to the extent possible, making all taxi and hire car regulation outcomes-based, rather than prescriptive.

The inquiry is also proposing that the new regulator, the TSC, play a critical role in overseeing the implementation of the package of reforms agreed to by the Victorian Government. This task will need to be closely managed and the impacts of reforms will need to be monitored continuously. The TSC will need to ensure that its responses to industry developments during the implementation period are appropriate and in line with the directions set for the reform program. This will not be an easy task and will require a commitment to consultation, as well as the collection and analysis of robust data about industry performance.

Recommendations

More effective governance and regulation

- 11.1** For its next phase as industry regulator, the TSC should have a concise and high level objective that gives it sufficient scope and flexibility to undertake a wide range of tasks associated with regulating the commercial passenger vehicle industry. This objective should be modelled along the following lines: 'In carrying out its functions, the TSC's objective is to promote the provision of customer friendly, competitive, efficient, safe and accessible commercial passenger vehicle services.'
- 11.2** The TSC should report annually to the Victorian Parliament on its progress in implementing agreed reforms arising from the inquiry.
- 11.3** The TSC's governance should comprise a multi-member panel of a lead Commissioner with capacity for up to two further Commissioners to be appointed. Appointments as Commissioners should be for a fixed term, with clear conditions on how these appointments can be terminated, preferably requiring the Minister to make the proposition before Parliament. The legislation should stipulate the skills and experience (skills considered more relevant are economic, competition, regulation and legal skills) required for a Commissioner. Appointment of the TSC CEO should be on the recommendation of the lead Commissioner.
- 11.4** There should be regular (every five years in the first instance) reviews of the regulatory framework and the performance of the regulator to ensure that the objectives of the regulation are being attained and are still relevant. This should be carried out in an open and transparent manner.

- 11.5** The *Transport Integration Act 2010* (TIA) may impose onerous obligations on small specialist regulators such as the TSC. Consideration should be given as to whether it is appropriate to amend the TIA to give specialist regulators the option to have regard to Part 2 of the TIA.
- 11.6** All regulation affecting the commercial passenger vehicle industry should be examined to ensure that, as far as possible, it is outcomes-based rather than prescriptive, enabling scope for regulated entities to find the most efficient ways of achieving the outcomes required and for the TSC to implement risk-based practice decisions in order to achieve the set objectives. This should include:
- All existing taxi and PBO licences should have, as far as possible, consistent requirements that are provided for in regulation. The use of licence conditions should be reserved for very specific circumstances and generally only apply to particular individual permit holders.
 - The review of regulation should ensure that there are no unnecessary regulatory impediments to the use of new online and smartphone applications to provide taxi and PBO booking or payment services.

Powers

- 11.7** The TSC should have flexible powers to ensure compliance with legislation, including powers to take civil and criminal action as appropriate.
- 11.8** The TSC should be empowered to undertake investigations and reviews around some specific aspects of regulation, as necessary to enhance and pursue its objectives or as directed by the Minister.
- 11.9** The TSC should have the power to issue guidelines and develop codes of conduct.
- 11.10** The TSC should be provided with effective information gathering power, including the requirement for all taxi permit holders to provide data on trips and shifts direct from the taximeter to the TSC on a continuous basis, and for ATOs to provide specified service delivery data on a regular basis.

Improved regulatory practices

- 11.11** The TSC should formulate and apply a compliance monitoring strategy that:
- Is based on transparent risk assessment methodologies
 - Can be implemented with available resources and with an acceptable level of residual risk
 - Recognises the costs it imposes on regulated entities
 - Is responsive to changing regulatory risks
 - Is documented
 - Is publicised externally to industry and other stakeholders.
- 11.12** The TSC should ensure that its enforcement responses to non-compliance are flexible and targeted at the highest priority risks posed by non-compliance. The TSC's enforcement actions should be graduated and based on the principles that they:
- Are proportionate to the risks posed by non-compliance
 - Recognise the capacity and motivation of non-compliant entities to return to compliance
 - Signal the seriousness with which it regards the non-compliance.
- 11.13** The TSC should develop and make public its rules, policies and guidelines for administering and enforcing regulations. The process of development of compliance policies should involve consultation with stakeholders and be conducted in a transparent manner.
- 11.14** There should be a transparent and accessible internal TSC appeals process in relation to driver accreditation, permit holder approvals, ATO approvals and disciplinary matters.

Consultation

- 11.15** The TSC should broaden industry consultation and engagement approaches to ensure they are effective in assisting the industry and other stakeholders to make the adjustments required under the reforms, and to facilitate ongoing stakeholder contribution to regulatory practices.
- 11.16** Formal memoranda of understanding should be implemented for the TSC's significant relationships with other regulators and statutory agencies such as the ESC, Victoria Police and VicRoads.

- 11.17** In addition, other agencies should consider improvements to their consultation and relationships with the TSC and the industry, including:
- Victoria Police should consider better ways to inform its officers of commercial passenger vehicle offences, the role of the TSC in regulating the industry and the need for police and TSC staff to work together to improve compliance outcomes. Victoria Police should also consider overseas models of cooperation between the police and taxi drivers in the detection and reporting of crimes observed by drivers.
 - The Australian Competition and Consumer Commission (ACCC) should consider liaising much more closely with the TSC on competition issues within the commercial passenger vehicle industry in Victoria.
 - Local governments should be given the opportunity to provide more formal and regular input to the TSC on managing future requirements for taxi ranks and rank congestion.
 - Melbourne Airport terminal operators should instigate more formal and regular liaison with the industry.

11.18 The TSC should ensure that it has a strong presence in both metropolitan and regional Victoria, focusing on more effective consultation and education with the industry and increased transparency of its regulatory activities.

11.19 More serious efforts should be undertaken to achieve harmonisation of taxi and hire car regulation between border cities, including if necessary devolving responsibility to local governments.

Funding

11.20 The TSC should be funded to a level that allows it to discharge its functions and responsibilities. In the short term, as has been forecast by the TSC's establishing legislation, the funding allocation currently provided to the Victorian Taxi Directorate (VTD) should transfer to the TSC when it assumes the operational regulator role.

11.21 Consideration should be given to the funding model required for the future, including the potential for an industry cost recovery approach. Consideration should also be given to providing the TSC with contingency funding for unforeseen court actions.

11.22 The TSC's establishing legislation providing for transparency of funding should be retained.

11.23 Revenue obtained from the sale of new taxi and PBO licences should be directed to industry reform and the delivery of better services to the community, including (but not limited to) supporting the implementation of measures proposed in the inquiry's recommendations:

- Continued support for safe ranks
- Expansion of the MPTP to assist people aged 80 years and over who have had their private vehicle driver licence suspended by VicRoads
- Provision of a Public Transport Access Travel Pass to MPTP members
- Continuing the WAT vehicle subsidy scheme
- Establishment of the central booking service in Greater Melbourne for WATs
- Introducing the independent examination of Greater Melbourne taxi drivers
- General funding of the TSC to ensure it is sufficiently resourced to undertake its task. A priority should be ensuring that the TSC's information and technology capabilities are adequate to allow it to produce industry performance intelligence, target regulatory and enforcement activities and, where possible, move to online forms and payments systems to reduce costs for regulated entities. A data warehouse capable of collecting, storing, analysing and reporting on all commercial passenger vehicle industry data provided from taximeters and ATOs, including MPTP data, should be established in year one of the reform program.

Boost demand

Removing impediments to taxis providing fixed route and share ride services, better integrating commercial passenger vehicles with the broader transport system and moving over time from fare control to fare competition will enable the industry to boost demand and realise its potential. It will also result in customers having a much greater choice in the types of services available.

12. New and more flexible taxi services

The inquiry has concluded that taxis and hire cars are falling well short of realising their potential as key elements of the transport system in Victoria. Taxis and hire cars are not public transport in the traditional sense of this term. They are essentially privately owned industries, but heavily regulated to achieve public policy objectives. Whereas the public transport system overall falls well short of commercial viability, the taxi and hire car industries are commercially viable. Public transport is under stress; taxis and hire cars are greatly under-utilised. This does not make sense to the inquiry.

While it is true that in providing point-to-point services for users, taxis and hire cars are different from set route train, tram and most bus services, it does not follow that they should be confined to providing these services. The inquiry sees no justification for not allowing taxis and hire cars to compete either indirectly or directly with buses and other public transport.

Even within the current restricted industry scope, there appears to be significant potential to expand the demand for taxi and hire car services. Regaining consumer confidence and trust is an important element of this, requiring the industry to significantly improve its service and safety performance and maintain as much restraint on fares as possible. It also requires greater innovation in services to meet emerging demands and respond to new technologies.

Where opportunities exist, the current industry structure often works against them. At an operator level, the industry is fragmented and fleet operators have not emerged to the degree that might have been expected, although there are positive signs of change. To date, NSPs have been more concerned about obtaining income from their affiliated operators and protecting their market positions than building final consumer demand. The inquiry's recommendations for regulatory reform are expected to result in structural change over time that should help to change industry culture for the better.

Many of the inquiry's recommendations aimed at increasing and improving supply and restoring trust will have the effect of also helping to boost demand. Recommendations in this section focus specifically on opening up opportunities to provide new services.

- 12.1** Legislation, and other impediments associated with fare setting, hindering the introduction of group hire services such as share rides and taxi shuttles should be removed.
- 12.2** The requirement under the *Bus Safety Act 2006* for taxis with 10 or more seats to seek registration as a bus in order to operate 'set fare' or 'set route' services should be removed. Taxis should not be defined as buses and permit holders should be permitted to offer fixed route services without having to seek a separate and duplicative registration.
- 12.3** Commercial passenger vehicle services should be more fully integrated with other transport services in policy and planning, as envisaged by the *Transport Integration Act 2010*. In particular, consideration should be given to funding or utilising taxis as a complement or alternative to community and public transport where there are (but not limited to):
 - Service/s that are commercially viable for a taxi but not viable for a bus
 - Service/s that are commercially viable for a taxi and a bus, but where the taxi is more economical and/or efficient than a bus
 - Service/s that are not commercially viable for either a taxi or a bus, but where there is limited or no public transport available in an area, the relevant authority has determined a need for the service and a taxi is more economical and/or efficient than a bus.
- 12.4** The DOT, with input from the TSC, should establish and lead a working party of representatives from each of the major government contract providers (for example, the Department of Veterans Affairs, Department of Human Services and Department of Planning and Community Development in relation to community transport) to standardise tender processes and raise awareness of commercial passenger vehicle services as a service option.
- 12.5** The DOT should revise procurement policies to ensure that permit holders are able to compete for contract work where a public transport service is required.

- 12.6** The Victorian Government should adopt measures to increase the access taxis have to bus lanes along freeways and major roads. The use of lanes should be subject to a regulatory impact assessment process and monitored by the DOT, Public Transport Victoria and VicRoads to assess the impact of changes on the performance of buses.

13. Fares

The inquiry has reviewed the operation of taxi fare regulation in Victoria and found that the current system of regulation imposes some significant costs, as well as delivering benefits for consumers. The costs include that it discourages competition where it is feasible – particularly for pre-booked work – and that it restricts innovation by service providers that might offer higher quality, higher price services or services with a different fare structure. Further, fare regulation creates extensive averaging of the cost of trips across a wide range of different circumstances, meaning that distortions are created, as seen in short trip refusals and long queues of taxis at the airport. The inquiry's recommendations aim to reduce some of these costs and encourage more competition so that some of the benefits from price and service differentiation can be captured.

The inquiry's 'first principles' review of fare regulation for taxis and hire cars suggests that arguments for fare regulation apply to taxis procured from a rank or hailed from the street. In these situations, fare competition is not very effective and the likely result from removal of fare controls is a sharp increase in fares. Nonetheless, there are examples in overseas jurisdictions where competition between taxi companies does work and gives consumers greater choice, even at taxi ranks. The inquiry believes these opportunities to empower consumers should be pursued.

In the longer term, and with barriers to entry removed or reduced, the regulator may be able to change the form of fare regulation into a price notification and price monitoring scheme (where fares are not set by the regulator, but by ATOs and permit holders with a requirement that any change in fares is publicly notified). Price notification would ensure that customers could be confident that fares could not be raised exploitatively, as well as facilitating comparisons between permit holders/ATOs. It would also allow more innovative pricing and new services to be introduced.

The inquiry considers that arguments for removing controls on fare setting in country and regional service areas are compelling and could occur much more rapidly. In these markets, work is mostly pre-booked and operators rely on repeat business. If barriers to entry can

be reduced in these areas, there would be significant gains from allowing operators to adjust fares to local conditions as they see fit.

Where fare regulation is to remain in the short-to-medium term, an obvious amendment to existing regulation is to change its form from fixed fares to maximum fares. The inquiry's strong view is that preventing discounting of fares cannot be justified and that allowing discounts may encourage some price differentiation between ATOs. Some relatively minor operational issues must be addressed for price discounting to proceed. The inquiry considers that it would be beneficial for discounts to be available on the meter, although it should also be possible for lower fares to be negotiated, as long as the meter is run as a protection for consumers (that is, consumers should pay no more than the metered rate).

The second part of the inquiry's fare considerations has concerned ways to improve the current fare regulation process.

The inquiry views the change in policy to allow the ESC to provide advice to the Minister on fare setting as having been beneficial for the industry and consumers. The ESC has been able to bring considerable rigour to the fare setting process and, through a series of fare reviews and other references, has been able to highlight some of the underlying flaws with taxi and hire car industry structures.

The inquiry considers that a further benefit would come from moving fare setting entirely away from the political process. This would follow precedents in other regulated industry sectors and give a greater degree of predictability about process and decision-making. As the ESC has no special taxi industry expertise, the inquiry also considers there would be benefit to conducting fare reviews in conjunction with the Taxi Services Commissioner(s).

While supportive of the ESC's role in general, the inquiry is making some specific suggestions about how to make fare setting work better. Some of these issues are clearly related to industry structure; others are directed specifically at taking greater account of the demand for taxi services, which is appropriate given that the taxi operators have a cost structure that is more like a competitive industry than a natural monopoly. The impetus for these proposals has also been provided by research undertaken for the inquiry which suggests that the current demand for taxi service is elastic, meaning that raising fares will not raise industry revenue in the short term. The inquiry also suggests that greater account could be taken of significant cost changes in fare setting.

The inquiry has examined some specific issues about fare structure. The first of these issues is the chronic issue of short fare refusals in Melbourne. A number of submissions suggested raising the flagfall to increase the profitability of short fares. At the same time, the inquiry has examined the apparent problems of over-capacity and long taxi queues at Melbourne Airport. This appears to be driven by the high profits that can be earned from long airport journeys, and is accentuated by 'Tariff 3', which applies a 50 per cent levy to the standard distance rate. This has led to large numbers of WATs waiting at the airport and reducing WAT availability across the rest of Melbourne.

The inquiry's work on fare structure issues is continuing. At this stage, the inquiry is minded to recommend an increase in the flagfall charge and a fall in the distance charge to compensate (with waiting time to remain unchanged). The inquiry seeks further feedback on the size of this change. A change to Tariff 3 is also proposed to move it from a levy on the distance charge to a fixed fee. This should have the effect of improving the attractiveness of short fares and wheelchair work and reducing the attractiveness of airport fares.

The inquiry also proposes two other structural changes to fares. The first is to better match operators' costs with fares, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak). The second is to facilitate greater use of multiple hiring and fixed fare journeys. These changes are critical to expand the role and service offerings of taxis in the transport network beyond standard, higher price taxi work. A simplified shared ride fare system should also be accessible to MPTP members.

Recommendations

Fare regulation to fare competition

- 13.1** Taxi fares in the Greater Melbourne and Urban zones should continue to be regulated in the short to medium term.
- 13.2** Fares should be determined by the ESC. To implement this, the Government should issue an order to declare the taxi industry to be a regulated industry under Section 4 of the *Essential Services Commission Act 2001*.
- 13.3** A Commissioner of the TSC should be appointed a Member of the ESC to assist with taxi fare reviews.
- 13.4** Regulated fares should change from being prescribed fares (fixed amounts) to maximum fares, giving permit holders and ATOs the ability to offer discounted rates below the maximum level to consumers.
- 13.5** Maximum fares should be recorded on the taximeter and drivers be allowed to provide discounts off the meter rate, as long as the meter is run as a protection for consumers.
- 13.6** ATOs should be permitted to determine and advertise lower fares than the maximum. All affiliated taxis with an ATO should be required to adhere to the ATO's published rates.
- 13.7** The TSC should introduce a range of policies to enhance consumer choice, even at taxi ranks. Industry and consumer information and education will be vital in this regard: conditioning and accommodating changes in consumer behaviour at ranks will require education of both consumers and drivers as to their rights and obligations under the law.
- 13.8** Following the first three years of the reform program, the TSC should assess the extent and effectiveness of fare competition to determine if it is suitable to move from maximum to notified and monitored fares in the Greater Melbourne and Urban zones in the future.
- 13.9** In regional (Zone 3) and country (Zone 4) markets, where pre-booked services predominate, the TSC should be empowered to replace formal maximum fare regulation with a price notification system, following the implementation of price-based licensing policy in these areas.

Fare methodology and fare structure

- 13.10** Fare reviews should be undertaken periodically with the capacity to undertake interim reviews should certain cost thresholds (for example, LPG price movements) be reached.
- 13.11** Fares should be restructured to:
- Better match operators' costs with fares, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak)
 - Increase the flagfall and reduce the price per kilometre for the Greater Melbourne zone to address the undesirable practices of short fare refusal and inefficient behaviour such as airport overcrowding
 - Replace the 'Tariff 3' 50 per cent surcharge on the distance rate with a flat fee of between \$10 to \$15, which customers should be advised of when they book a higher occupancy vehicle or when they select one from a rank, such as at the airport
 - Simplify 'multiple hire' fare charging to support the industry to offer more flexible, innovative shared ride type services (for example, by allowing flat fee amounts for passengers in a shared ride trip that total more than the meter) and include provisions for MPTP members to use their subsidy for shared rides.

14. Reducing the service fee for electronic payments

The inquiry has found that the 10 per cent service fee charged on all electronic payments in Victorian taxis is excessive. As set out in chapter 12, the inquiry considers this high charge is linked to both a lack of competition in the payments systems markets and, more broadly, to the lack of competition in the taxi services market in which payment systems are used.

Competition among payment system providers is hampered by significant regulatory and commercial barriers to entry and expansion. Also, in the current taxi market, there are limited incentives for taxi operators and NSPs to compete by offering lower surcharges to taxi users.

Regulatory barriers to entry to the payment instruments and payment processing market have inadvertently been created by the Victorian Government by allowing Cabcharge to be the sole provider of data collection services for the MPTP and through the prescriptive process for approval of EFTPOS terminals in cabs.

The inquiry's view is that commercial barriers set up by Cabcharge are best addressed by the ACCC and the Reserve Bank of Australia, who oversee and enforce regulation of anti-competitive behaviour in payment systems markets and the efficiency of the payment systems and are best placed to ensure regulatory consistency between the states.

Currently, the only competition in payments processing focuses on attracting taxi operators and drivers by offering rebates funded from the 10 per cent surcharge. As the inquiry has observed, this is no benefit to consumers and demonstrates that the surcharge far exceeds the resource costs of providing the payment service.

The inquiry has formed the view that, even if some barriers to competition in payments processing are lowered – such as access to processing Cabcharge-branded cards and the removal of the MPTP Cabcharge monopoly – the 10 per cent surcharge is likely to remain common practice. Market pressure for a reduction in the surcharge in the future will only occur if and when taxi permit holders and/or ATOs compete effectively for customers.

At the same time, promising technological developments in Australia and overseas are starting to present alternatives to using taxi specific payment processing systems with the benefit of offering lower processing fees to taxi users. The inquiry notes the importance of ensuring that regulation facilitates, rather than stifles, such innovation.

- 14.1** Barriers to entry into payments processing should be reduced, by changing arrangements for the MPTP scheme and changing the approvals process for EFTPOS devices in Victorian taxis.
- 14.2** A new standard should be established for the processing of MPTP cards and this should be made available to future card payment providers. This would involve allowing any EFTPOS terminal to process MPTP cards by permitting taxi fare data to be acquired by EFTPOS terminals via newer 'cloud' technologies, rather than only via the current requirement of a hard-wired link with the taximeter. The new standard should be sufficiently technically robust to control fraud under all operating conditions. Adoption of this recommendation will require a formal design evaluation and commercial procurement diligence, prior to implementation.
- 14.3** The 10 per cent service fee levied on the processing of electronic payments should be brought under regulation as part of taxi fares and set at a level that better reflects the resource costs of providing the service. The inquiry recommends this fee be set at five per cent of transaction value until subject to a further evaluation by the ESC as part of a fare review.
- 14.4** Removal of the regulation applying to the processing of electronic payments for taxi fares should occur as part of a broader move to remove fare controls or if and when new technology facilitates greater competition in payments processing fees.

The inquiry's views on national reform

During the course of the inquiry, efforts have been made to engage with other jurisdictions to obtain knowledge of the regulatory systems operating elsewhere and of any likely future reform initiatives being contemplated by these jurisdictions. What stands out from these discussions is the commonality of the issues faced by each jurisdiction and the potential benefits to be obtained by working together to achieve desired reforms.

Over the past 15 years in Australia, there have been several phases where national reforms have been on the agenda in relation to taxis. Initially, taxi reform was covered by National Competition Policy (NCP). However, the reviews and reforms undertaken by most States and Territories were judged by the National Competition Council as failing to meet the NCP obligations. Further reforms, including the National Reform Agenda and the subsequent Seamless National Economy initiative (including the National Occupational Licensing Scheme) did not include taxis and hire cars.

Given the essentially local nature of taxi and hire car industries, the inquiry considers that little is likely to be gained by developing a national regulatory framework for these industries: regulation is best kept at the State/Territory level. There also does not appear to be a strong case for seeking comprehensive harmonisation of regulation across jurisdictions. While there may be some benefit in developing common understandings about the nature of regulation required and methodologies to be applied in implementing regulation, circumstances vary widely between the jurisdictions – suggesting that each jurisdiction should be able to pursue reforms as it thinks appropriate. This particularly relates to the issue of what to do about licence number restrictions.

However, there are a number of specific areas where harmonisation does appear to be a desirable objective and a national reform program could usefully encompass these areas. This would be a wider agenda than that pursued to date through the Australian Transport Council and could cover driver and vehicle regulation issues in the first instance, before examining other aspects of industry regulation.

Driver licensing

It seems sensible, given the work already done to develop core National Taxi Driver Competency units and a National Minimum English Standard, to seek further harmonisation of requirements for driver certification. In particular, driver experience requirements and criminal record check requirements could be standardised across the jurisdictions. A move from individual jurisdiction driver certification or licensing to national licensing would then be easier to implement. A national licence would allow a person to drive in any jurisdiction without having to obtain separate jurisdictional licences and would have advantages over mutual recognition in this respect.

Vehicles

Specific taxi and hire car vehicle restrictions vary between jurisdictions for little apparent reason. Greater consistency in vehicle regulations may assist manufacturers and importers to supply more appropriate vehicles to the Australian taxi market as a whole, including improving the overall accessibility of the fleet.

Taximeters

Taximeters have been exempt from trade measurement legislation in Australia. This situation has been maintained with the recent transfer of the trade measurement functions of State and Territory governments to the Federal Government and the passage of new national measurement legislation. Generally, the responsibility for assessing meters and their accuracy still falls to the taxi industry-specific regulators. These regulators are not experts in trade measurement and the inquiry has found that the regulation of taximeters in Victoria has not been sufficiently rigorous to give confidence that meters are always accurate to internationally recommended standards. There are clear benefits in the National Measurement Institute taking on responsibility for taximeters and working with jurisdictional taxi regulators in this area.

Consistent reporting and benchmarking of taxi and hire car regulators

Taxi and hire car regulators perform similar functions to each other in their different jurisdictions. It is desirable that regulation be locally focused and this is best achieved by having regulators operating at the State and Territory level. However, it is also desirable that regulators perform their functions efficiently and effectively: in this respect, there is a case for ensuring consistent reporting of their activities and possibly benchmarking their performance.

Progressing national reform initiatives in taxis and hire cars

The inquiry considers that there is a strong case for pursuing on a national basis a number of the taxi and hire car reforms, such as those outlined above. The inquiry has no particular view as to the most appropriate mechanism for this to occur; for example, whether through the Standing Council on Transport and Infrastructure (which has replaced the Australian Transport Council), the National Transport Commission or the Business Regulation and Competition Working Group under the Council of Australian Governments. Reforms could also be progressed by a limited number of interested jurisdictions. The Interstate Reform Partnership, established by the Premiers of Victoria and NSW in 2011, may also provide an appropriate mechanism to advance reform¹.

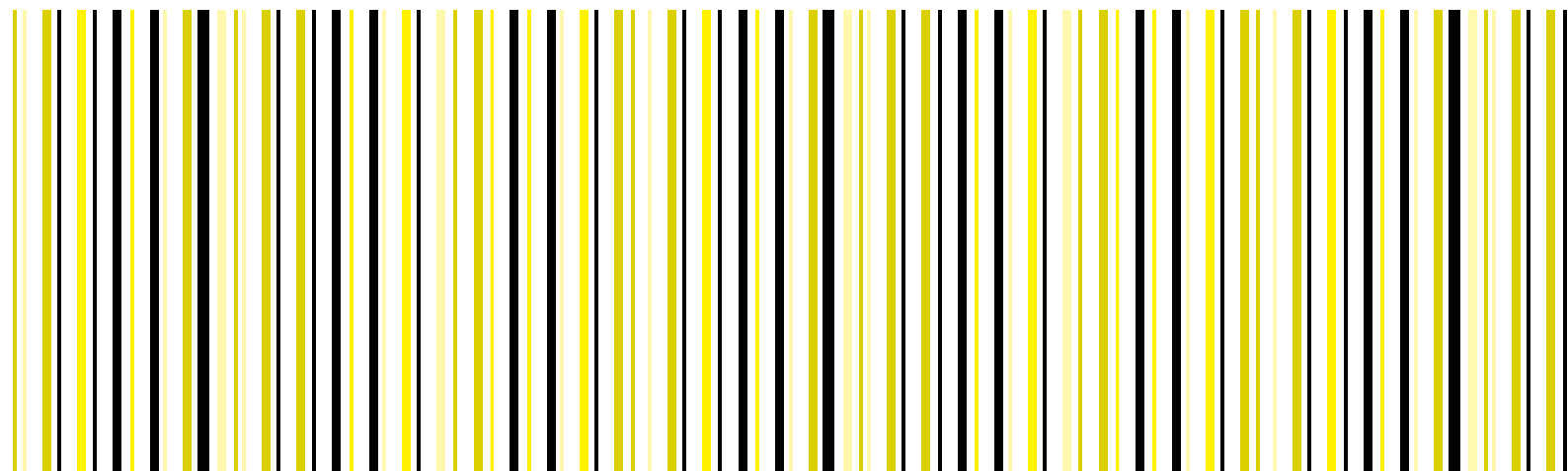
Application of competition laws

The inquiry has identified adverse effects on competition in the taxi industry arising from the dominance of particular entities. The Australian Competition and Consumer Commission (ACCC) is the national body responsible for the administration and enforcement of the Competition and Consumer Act 2010 (Cth) and has a vital part to play in ensuring compliance with this law. State and Territory regulators have a role to play in highlighting their concerns about competition restrictions to the ACCC and removing unnecessary regulation that may be facilitating the growth or maintenance of restrictive practices. There is a need for the State and Territory taxi and hire car regulators and the ACCC to liaise closely to ensure markets are as competitive as possible. There may be a case to formalise the cooperation of these bodies through memoranda of understanding or similar mechanisms.

¹ See The Hon. Ted Baillieu MP and the Hon. Barry O'Farrell MP, Interstate Reform Partnership – NSW and Victoria, Communique 14 December 2011



Appendices



Appendix A

Community engagement

The inquiry developed and implemented a comprehensive community engagement strategy to ensure that as many Victorians as possible had an opportunity to contribute their views on the future of taxi and hire car services.

The inquiry team actively sought input from individual taxi and hire car users in Melbourne and regional Victoria, from industry participants and from organisations with an interest in taxi and hire car services such as local councils, community organisations and business groups. A number of mechanisms were used to canvass a broad a range of views and provide different avenues of access to the inquiry team, including formal submissions, community forums, customer surveys, confidential consultations and feedback via letters, emails and social media sites. Highlights of the strategy are summarised here.

Engaging with the community

Meetings and visits

The inquiry initiated a number of meetings to improve the team's understanding of the taxi and hire car industry in Victoria, examine particular issues and concerns in greater detail, or explore potential options for reform. The inquiry team also responded to requests for meetings from individuals and organisations. Groups consulted by the inquiry included:

- Local councils, particularly those covering regional and outer metropolitan municipalities
- Transport experts and economists
- Government departments and agencies
- Community organisations
- Business and industry associations
- Groups representing people with a disability.

Members of the inquiry team travelled to regional centres to conduct community 'open houses' and consult with local councils, industry participants, community transport providers, regional tourism associations and others about taxis services in regional Victoria. Over the duration of the inquiry, the team visited Warrnambool, Mildura, Wodonga, Bairnsdale, Bendigo, Ballarat, Shepparton, Traralgon, Horsham, Ararat, Stawell and Geelong.

Professor Fels led discussion at several of these forums, which were attended by more than 160 individuals and organisations.

VCOSS forum

On 20 July 2011, the inquiry co-hosted a forum with the Victorian Council of Social Service (VCOSS) to discuss ways to improve taxi and hire car services for mobility disadvantaged people. The forum was attended by 175 people, including older people, people with a disability, representatives of community groups and local government, and some taxi operators and representatives. Following an opening address by Professor Fels, facilitated group discussions examined people's experiences, needs and suggestions for improvements to taxi services. The inquiry team prepared a brief information paper to help inform discussions at the forum.

VCOSS's report of the forum, *The Voices of Taxi Users*, was made available at the inquiry's website.

Social media

The inquiry established a Facebook page (www.facebook.com/TaxiIndustryInquiry) to keep Victorians informed about the inquiry's progress and activities, and to give people an opportunity to comment on taxi-related issues. Particular issues canvassed via Facebook included short fare refusals, dome lights, the 10 per cent surcharge on electronic payment of taxi fares and the availability of taxis during major events. Visitors to the Facebook page were also encouraged to complete the inquiry's surveys about taxi services. Over the course of the inquiry, the Facebook page recorded more than 115,000 hits.

The inquiry also established a presence on Twitter (www.twitter.com/taxiinquiry), with the inquiry team tweeting regularly on issues being raised in forums and providing updates about the inquiry's activities.

Video highlights of forums and comments and speeches from Professor Fels were shown on the inquiry's YouTube channel (www.youtube.com/user/taxiinquiry).

Website

The inquiry team created a website shortly after the inquiry was announced in May 2011. The website – www.taxiindustryinquiry.vic.gov.au – provided updates about the inquiry's activities and details for contacting the inquiry team. Reports and papers published by the inquiry, media releases and speeches by Professor Fels were available for viewing and downloading from the website, as were all public submissions to the inquiry. Customer and driver surveys could be downloaded and returned to the inquiry via the website.

Customer survey

The inquiry encouraged taxi users to complete an online customer survey to obtain information on patterns of taxi use, levels of satisfaction and issues of concern. The survey was publicised through media outlets, and distributed online, through social media and through community and regional forums. More than 500 people responded to the survey.

Discussion papers

The inquiry released a number of discussion papers to stimulate debate on particular issues and to encourage Victorians to contribute to the inquiry:

- *Setting the Scene* background paper (May 2011)
- *Improving taxi services for mobility disadvantaged Victorians* (July 2011)
- *Setting the Scene – Submissions and Responses* (September 2011)
- *Creating a fairer system for Victoria's taxi drivers* (October 2011)
- *Taxi services and what they mean for regional Victorians* (November 2011)
- *Improving taxi booking services for customers, drivers and operators* (November 2011)
- *Hire car services and what they mean for Victorians* (December 2011)
- *Taxi licences in Victoria* (January 2012).

These papers were made publicly available through the inquiry's website and were also distributed at forums, open houses and other activities.

Engaging with the taxi and hire car industry

Taxi drivers forum

On 10 October 2011, more than 50 taxi drivers attended a forum with Professor Fels and Dr David Cousins. Drivers shared their views of taxi services and the structure of the industry, with improvements to pay and working conditions, rewards for experience and excellence, safety and insurance featuring as key concerns for drivers.

Taxi driver survey

The inquiry invited current Victorian taxi drivers to complete a survey to improve the inquiry team's understanding of drivers' working conditions and income, and to canvass drivers' views on improvements that can be made to taxi services. The survey was distributed online through the inquiry's website and Facebook page, as well as being available to drivers at forums, regional visits and other activities conducted by the inquiry. The inquiry received 560 survey responses from drivers.

Taxi operator survey

The inquiry invited current Victorian taxi operators to complete a survey to improve the inquiry team's understanding of how taxis operate and their relationship with drivers as well as to canvass operators' views on improvements that can be made to taxi services. Operators were also encouraged to complete a more detailed survey on their business operations to help the inquiry understand operating costs. The inquiry wrote to all taxi operators and distributed the survey online through the inquiry's website and Facebook page. The inquiry received 277 survey responses from operators.

Taxi licence holder survey

The inquiry invited current Victorian taxi licence holders to complete a survey to improve the inquiry team's understanding of the role and involvement of licence holders in the taxi industry and to canvass their views on improvements that can be made to taxi services. The inquiry wrote to all taxi licence holders and distributed the survey online through the inquiry's website and Facebook page. The inquiry received 335 survey responses from licence holders.

Workshop on hire car services

A workshop was held on 30 January 2012 to hear from current hire car operators and drivers about hire car services in Victoria. The purpose of the workshop was to further explore issues and ideas raised in the hire car discussion paper and receive feedback from attendees.

Around 30 hire car operators and drivers came from across Victoria to take part.

Hire car operator survey

The inquiry invited current Victorian hire car operators to complete a survey to improve the inquiry team's understanding of how hire car businesses operate and to canvass their views on improvements that can be made to hire car services. The inquiry wrote to all hire car operators and distributed the survey online through the inquiry's website and Facebook page and at the hire car services workshop. The inquiry received 76 survey responses from hire car operators.

Submissions to the inquiry

393 submissions were received over the course of the inquiry. The main stakeholder groups who contributed to the inquiry are set out in Table A1, a full list of submissions is set out in Table A2.

Table A1 Main stakeholder groups

1	Taxi drivers
2	Individual taxi users
3	Community organisations/advocacy groups
4	Local councils
5	Licence holders
6	Taxi operators
7	Hire car operators

Source: Taxi Industry Inquiry

Table A2 Submissions received

No.	Individual/Organisation	Date received
1	Paul Grabham	8 April 2011
2	Irene Goldwasser	14 April 2011
3	Brian Woods	12 May 2011
4	Confidential - not publicly available	
5	Dean Anderson, Victoria Police	12 May 2011
6	Anonymous	12 May 2011
7	Peter Tsetis, Amotran Pty Ltd	12 May 2011
8	Creighton Kaye	13 May 2011
9	Rohan Martin, Ambulance Victoria	15 May 2011
10	Anonymous	16 May 2011
11	Robert White	17 May 2011
12	Carl Stillman	17 May 2011
13	Ron Hulme, Aberlene Limousines (My Limo)	19 May 2011
14	Stephen Byron, Canberra Airport	23 May 2011
15	Anonymous	24 May 2011
16	Kerry Jelbart	25 May 2011
17	Kelvin Thomson MP, Member for Wills	26 May 2011
18	Wilson Tuckey	26 May 2011
19	Confidential - not publicly available	
20	Peter Erwin	30 May 2011
20A	Peter Erwin	15 July 2011
21	Rev & Mrs Peerman	27 May 2011
22	Margaret Burrowes	30 May 2011
23	Andrew Katos MP, State Member for South Barwon on behalf of Beris Baker	30 May 2011
24	Confidential - not publicly available	
25	Anonymous	31 May 2011
26	Kimberley Helps	31 May 2011
27	Michael Jools, Australian Taxi Drivers Association	31 May 2011
28	Emily Simatos, Public Transport Access Committee	31 May 2011
29	Antoni Pavlakos	1 June 2011
30	Ruth Kruger	1 June 2011
31	Ms Gold	2 June 2011
32	Frank Raco, 1300 Limonow Pty Ltd	2 June 2011
33	Una Gold	3 June 2011
34	Vincent Mennilli, Always Classic Cars	4 June 2011
35	Anonymous	5 June 2011

No.	Individual/Organisation	Date received
36	Holger Hansen	8 June 2011
37	Anonymous	9 June 2011
38	Aydin Tat, Technical Advanced Training	10 June 2011
39	Mark McKenzie	11 June 2011
40	BIG4 Beacon Resort	11 June 2011
41	Susan Jennison, Keilor Residents and Ratepayers Assoc Inc	12 June 2011
42	Demetre Nidas	13 June 2011
43	Andrew Herington	14 June 2011
44	Nillumbik Shire Council	14 June 2011
45	Anonymous	15 June 2011
46	Confidential - not publicly available	
47	John Gordon, Wedding Car Association	15 June 2011
48	Anonymous	15 June 2011
49	Anonymous	16 June 2011
50	Child Safety Commission	17 June 2011
51	Michael Pinzone	17 June 2011
52	Michele Revill	19 June 2011
53	John Barnett	19 June 2011
54	Bruce Mossig, Victorian Country Limousine Association	20 June 2011
54A	Bruce Mossig	23 Nov 2011
55	Victorian Trades Hall Council	20 June 2011
56	Confidential - not publicly available	
57	Confidential - not publicly available	
58	Gary Lane	22 June 2011
59	Ioannis Kourouvanis	22 June 2011
60	Victorian Taxi Association	22 June 2011
60A	Victorian Taxi Association	15 Aug 2011
60B	Victorian Taxi Association	16 Aug 2011
60C	Victorian Taxi Association	30 Aug 2011
61	Warrnambool City Council	22 June 2011
62	Anonymous	22 June 2011
63	City of Boroondara	23 June 2011
64	Christine Fyfe MP, Member for Evelyn	23 June 2011
65	City of Greater Dandenong	23 June 2011
66	Anonymous	23 June 2011
67	Scope	23 June 2011
67A	Scope	8 June 2011

No.	Individual/Organisation	Date received
68	Anonymous	23 June 2011
69	National Seniors Australia - Melbourne City Branch	23 June 2011
70	Port of Melbourne Corporation	23 June 2011
71	Yarra Ranges Council	23 June 2011
72	Confidential - not publicly available	
73	Confidential - not publicly available	
74	Lawrence Abrahams	23 June 2011
74A	Lawrence Abrahams	17 Feb 2012
75	Victorian Equal Opportunity and Human Rights Commission	23 June 2011
76	Peter Trost	23 June 2011
76A	Peter Trost	23 Dec 2011
76B	Peter Trost	17 Feb 2012
77	Douglas Clark	23 June 2011
77A	Douglas Clark	17 Feb 2012
78	Anonymous	23 June 2011
79	Physical Disability Council of Victoria	23 June 2011
80	Carers Victoria	23 June 2011
81	Anonymous	23 June 2011
82	David Manks	23 June 2011
83	Tanya Atkinson, Wintringham	23 June 2011
84	East Gippsland Shire Council	23 June 2011
85	Wodonga City Council	24 June 2011
86	Ben Roscoe, NetTaxis	24 June 2011
87	Spina Bifida Foundation of Victoria Inc	24 June 2011
88	Crown Melbourne Limited	24 June 2011
89	Golden Plains Shire	24 June 2011
90	Consumer Action Law Centre	24 June 2011
91	Public Transport Ombudsman	24 June 2011
92	Cabfare	24 June 2011
93	Southern Mallee Transport Connections Partnership	24 June 2011
94	Eastern Transport Coalition	24 June 2011
95	Alex Saltikov	24 June 2011
96	Phil Lipshut	24 June 2011
97	Council on the Ageing Victoria	24 June 2011
98	Springvale Monash Legal Service Inc	24 June 2011
99	Darebin City Council	24 June 2011
100	David Brumby	24 June 2011

No.	Individual/Organisation	Date received
100A	David Brumby	22 Feb 2012
101	James Merlino MP, State Member for Monbulk	24 June 2011
102	Manningham City Council	28 June 2011
103	Inclusion Melbourne	27 June 2011
104	Municipal Association of Victoria	24 June 2011
105	Federation of Legal Centres (Victoria) Inc	24 June 2011
106	Fiona Richardson MP, Shadow Minister for Public Transport	24 June 2011
107	City of Ballarat	24 June 2011
108	Anonymous	24 June 2011
109	Hire Cars Victoria	24 June 2011
110	Shire of Melton	24 June 2011
111	Anonymous	24 June 2011
112	Hans Althoff	24 June 2011
113	Anonymous	24 June 2011
114	City of Greater Geelong – City Services	24 June 2011
115	Transport Workers Union of Australia	24 June 2011
116	Gillian Lang	26 June 2011
117	Christopher Wood	26 June 2011
118	Anonymous	27 June 2011
119	Philip La Roche	27 June 2011
120	Mt Alexander Shire Council	27 June 2011
121	Anonymous	27 June 2011
122	Cuckoo Restaurant	27 June 2011
123	Submission withdrawn	
124	Gange Corporation	27 June 2011
124A	Gange Corporation	23 Sept 2011
125	City of Port Phillip	28 June 2011
126	Vision Australia	29 June 2011
127	Ultimate Media Group	29 June 2011
128	Northern Mallee Primary Care Partnership	30 June 2011
129	Phillip C	1 July 2011
130	David Rome	3 July 2011
131	Mark Stone	10 June 2011
131A	Mark Stone	17 Feb 2012
132	Travellers Aid Australia	1 July 2011
133	Returned and Services League of Australia	1 July 2011
134	Buloke Shire Council (see submission 154)	

No.	Individual/Organisation	Date received
135	Taxi Drivers Association of Victoria	1 July 2011
136	Anonymous	4 July 2011
137	Mildura Rural City Council	5 July 2011
138	Kidsafe Vic Inc	5 July 2011
139	Joe	5 July 2011
140	Confidential - not publicly available	
141	Robin Hunt	6 July 2011
142	Spinal Cord Injuries Australia	6 July 2011
143	Doreen Parker	6 July 2011
144	Yooralla	8 July 2011
145	David Hodggett MP, Member for Kilsyth	7 July 2011
146	Geelong Radio Cabs	8 July 2011
147	Youth Disability Advocacy Service	11 July 2011
148	John Glazebrook	9 July 2011
149	Anonymous	10 July 2011
150	WorkSafe Victoria	6 July 2011
151	Essential Services Commission	11 July 2011
152	Suncorp and Footscray Community Legal Centre	13 July 2011
153	City of Moreland	15 July 2011
154	Buloke Shire Council	14 July 2011
154A	Buloke Shire Council	14 July 2011
155	Blind Citizen's Australia	14 July 2011
156	Royal Children's Hospital	14 July 2011
157	Omer Farooq (see submission 169)	
158	National Disability Service	15 July 2011
159	Submission withdrawn	
160	Frankston City Council	18 July 2011
161	Omer Farooq (see submission 169)	
162	Anonymous	18 May 2011
163	Brenda Rawlins	20 July 2011
163A	Brenda Rawlins	25 Nov 2011
164	Barton Chauffeurs	18 July 2011
165	Paul Mangion	20 July 2011
165A	Paul Mangion	17 Feb 2012
166	City of Melbourne	20 July 2011
167	Driver Education Centre of Australia (DECA)	21 July 2011
168	Department of Transport & Victorian Taxi Directorate	18 Aug 2011

No.	Individual/Organisation	Date received
169	Omer Farooq	21 July 2011
170	Melbourne Airport Corporation	29 July 2011
171	Mornington Shire Council	22 July 2011
172	Richard Spear	22 July 2011
173	Kevin Russell	22 July 2011
174	Philip Walker	22 July 2011
175	R.E. Kudis	24 July 2011
176	Sue Mead	25 July 2011
177	Anonymous	25 July 2011
178	Ndevr Environmental Consulting	29 July 2011
179	Department of Treasury and Finance	2 Aug 2011
180	John Glazebrook	24 April 2011
181	John Glazebrook	27 July 2011
181A	John Glazebrook	26 Aug 2011
181B	John Glazebrook	31 Dec 2011
181C	John Glazebrook	11 Jan 2012
182	VECCI	4 Aug 2011
183	Cardinia Shire Council	3 Aug 2011
184	Madeleine Sobb	8 July 2011
185	City of Stonnington	24 July 2011
186	Anonymous	18 July 2011
187	Anonymous	29 July 2011
188	Peter & Elaine Cullinan	11 July 2011
189	Anonymous	2 July 2011
189A	Anonymous	23 Aug 2011
190	GoCatch	14 Sept 2011
191	VCOSS	7 Sept 2011
192	Prof L Murray Gillin AM	5 Aug 2011
193	Anonymous	27 Aug 2011
194	Ben Parks	28 Aug 2011
195	Nigel Mowbray - PetCabs	29 Aug 2011
196	Phil Rowan	31 Aug 2011
196A	Phil Rowan	6 Dec 2011
197	Kam Sidhu	2 Sept 2011
197A	Kam Sidhu	24 Jan 2012
198	Paul Tierney	5 Sept 2011
199	Manfred Glagau	7 Sept 2011

No.	Individual/Organisation	Date received
200	Muhamad Najib Sungkar	9 Sept 2011
201	Catherine Gosling	11 Sept 2011
202	Anonymous	22 Sept 2011
202A	Anonymous	24 Sept 2011
202B	Anonymous	24 Jan 2012
202C	Anonymous	9 Feb 2012
202D	Anonymous	17 Feb 2012
203	RJ Thomson	23 Sept 2011
204	Paul Brand	23 Sept 2011
205	Anonymous	29 Sept 2011
206	Anonymous	29 Sept 2011
207	John Vance	29 Sept 2011
208	Phil Ross	29 Sept 2011
209	Mohammed Abdur Rashid	3 Oct 2011
210	Alasdair Baird	3 Oct 2011
211	Richard Smith	4 Oct 2011
212	Confidential - not publicly available	
213	Peter Patsiavos	14 Oct 2011
214	Chris Gehrig	3 Oct 2011
215	Ajay Singh Rana	12 Oct 2011
216	Ronald Batagol	12 Oct 2011
217	The Langham Melbourne	12 Oct 2011
218	Charles Pisani	12 Oct 2011
219	Anonymous	13 Oct 2011
220	Peter McDonagh	13 Oct 2011
221	Metropolitan Transport Forum	13 Oct 2011
222	Dandenong Taxis	13 Oct 2011
223	Obedullah Mohammad	14 Oct 2011
224	Holger Hansen	14 Oct 2011
225	Norman Sierak	14 Oct 2011
226	Rev & Mrs Peerman	20 Oct 2011
227	The Corner Hotel	3 Nov 2011
228	Resham Sekhon	4 Nov 2011
229	Colin Sharp	6 Nov 2011
230	Keith Murdoch	6 Nov 2011
230A	Keith Murdoch	22 Feb 2012
231	Manjinder Singh	10 Nov 2011

No.	Individual/Organisation	Date received
232	Hans Zonneveldt	11 Nov 2011
233	Ambassador Taxis Taxi Link Cabways	14 Feb 2012
234	Fred Boreham	17 Nov 2011
235	Robin Smith	22 Nov 2011
235A	Robin Smith	9 Dec 2011
235B	Robin Smith	8 Feb 2012
236	Mrs Noel Rumbold	22 Nov 2011
237	Spencer Turner	23 Nov 2011
237A	Spencer Turner	8 Jan 2012
238	PeninsulaTaxis	24 Nov 2011
239	Anonymous	24 Nov 2011
240	Simon Holloway	25 Nov 2011
241	Natasha Koravos	25 Nov 2011
242	Sean OBrien	26 Nov 2011
243	Robert Salisbury	27 Nov 2011
244	Paul Yammouni	28 Nov 2011
245	Confidential - not publicly available	
246	Anonymous	29 Nov 2011
247	Anonymous	29 Nov 2011
248	Errol Spaul	30 Nov 2011
249	Phil Corrigan	30 Nov 2011
250	Allan Bemrose	30 Nov 2011
251	Anonymous	6 Dec 2011
251A	Anonymous	6 Dec 2011
251B	Anonymous	6 Dec 2011
251B	Anonymous	17 Feb 2012
252	Norman Cameron	1 Dec 2011
253	Craig Wilkins	5 Dec 2011
254	Taxilink	5 Dec 2011
254A	Taxilink	15 Feb 2012
254B	Taxilink	15 Feb 2012
255	Confidential - not publicly available	
256	Ian Hossack	5 Dec 2011
257	Roger Dunn	6 Dec 2011
258	Bryan Finlay	6 Dec 2011
259	Confidential - not publicly available	
260	Simon Nirens	7 Dec 2011

No.	Individual/Organisation	Date received
260A	Simon Nirens	3 Jan 2012
261	Horsham Taxis	8 Dec 2011
262	Judith Segal	9 Dec 2011
263	Maurice Joyce	11 Dec 2011
264	Frank Kelly	11 Dec 2011
265	Brian Fox	12 Dec 2011
266	Confidential - not publicly available	
266A	Confidential - not publicly available	
267	Coseats	14 Dec 2011
268	Lorraine Moss	14 Dec 2011
269	Michael Flynn	14 Dec 2011
270	Confidential - not publicly available	
271	Robert Macmillan	18 Dec 2011
272	Graeme Cameron	16 Dec 2011
273	John Sulaj	19 Dec 2011
274	Ella Leonie Walsh	19 Dec 2011
275	Confidential - not publicly available	
276	Alan	19 Dec 2011
277	MyTaxi	19 Dec 2011
277A	MyTaxi	16 Feb 2012
278	Nightclub Owners Forum	19 Dec 2011
279	Mark Longton	21 Dec 2011
280	Kirsten McCarthy	22 Dec 2011
281	Confidential - not publicly available	
281A	Confidential - not publicly available	
282	Danny Jansky	23 Dec 2011
283	Philip Millett	5 Jan 2012
284	Malcolm Bish	8 Jan 2012
285	John Kourouvanis	15 Jan 2012
286	Costas Ginis	16 Jan 2012
287	Chris Laidlaw	21 Jan 2012
288	Rocky Sinistovik	21 Jan 2012
289	Sukhdev Randhawa	21 Jan 2012
290	Priyantha Athukorala	22 Jan 2012
291	Kevin Mitchell	24 Jan 2012
291A	Kevin Mitchell	25 Jan 2012
292	Platinum Taxis	16 Jan 2012

No.	Individual/Organisation	Date received
292A	Platinum Taxis	20 Jan 2012
293	Anonymous	23 Jan 2012
294	Australian and New Zealand Ombudsman Association (ANZOA)	24 Jan 2012
295	Douglas Thomas	25 Jan 2012
296	Confidential - not publicly available	
297	Anonymous	25 Jan 2012
298	Ilias Antipas	25 Jan 2012
299	Bronwyn Borradaile	27 Jan 2012
300	Traralgon Taxis	30 Jan 2012
301	Lakes Entrance Taxi Service	30 Jan 2012
302	Len Taylor	30 Jan 2012
303	Anonymous	31 Jan 2012
303A	Anonymous	6 Feb 2012
304	J.S. & S.R. Neighbour	1 Feb 2012
305	Sisay Tsegaw	1 Feb 2012
306	Gwen Callen	1 Feb 2012
307	John Falvo	1 Feb 2012
308	Andrew Yammouni	2 Feb 2012
308A	Andrew Yammouni	13 Feb 2012
309	Evangelos Theodorou	3 Feb 2012
310	Gregg Pollock	3 Feb 2012
311	Chris Rigas	4 Feb 2012
312	Ilona Kadar	4 Feb 2012
313	Onfrio Biviano	5 Feb 2012
314	Anand Panchbhavi	6 Feb 2012
314A	Anand Panchbhavi	9 Feb 2012
315	Anonymous	6 Feb 2012
316	Anonymous	7 Feb 2012
317	Kevin Soloman	7 Feb 2012
318	Paul Perin-Symons	7 Feb 2012
319	John Kelly	7 Feb 2012
320	Chris Furst, Stefan Furst, Robert Furst	8 Feb 2012
321	Tina Skafidas	8 Feb 2012
321A	Tina Skafidas	16 Feb 2012
322	Shirley Croft	8 Feb 2012
323	Mohannad Anwaar Hussain	8 Feb 2012
324	Confidential - not publicly available	

No.	Individual/Organisation	Date received
325	Kirk Bell	1 Feb 2012
326	Quang Thong Nguyen	9 Feb 2012
327	George Richardson Nominees	9 Feb 2012
328	Sardul Raikmoh	9 Feb 2012
329	Heather Noller	9 Feb 2012
330	A Kleimann	9 Feb 2012
331	Mustafa Oguzhan	9 Feb 2012
332	V Hanns	10 Feb 2012
333	Dominic Villarosa	10 Feb 2012
334	Vince Lyneham	10 Feb 2012
335	Eugene Pantalone	10 Feb 2012
336	Harbinder Kaur	1 Feb 2012
337	Michael Taouk	11 Feb 2012
338	John Vlassopoulos	12 Feb 2012
339	Douglas Parker	12 Feb 2012
340	Djerda Dedic	12 Feb 2012
341	Eftsratis Adrianakis	12 Feb 2012
342	Ekrem Baser	13 Feb 2012
343	Michael Dodds	13 Feb 2012
344	Ajay Bansal	14 Feb 2012
345	Confidential - not publicly available	
346	Robinvale Euston Taxis	14 Feb 2012
347	Jasmeet Randhawa	14 Feb 2012
348	Douglas Sims	15 Feb 2012
349	Allan McMonnies	15 Feb 2012
350	Anonymous	15 Feb 2012
351	E.J. Weston	15 Feb 2012
352	Anonymous	15 Feb 2012
353	Domenico Cerminara	15 Feb 2012
354	Confidential - not publicly available	
355	John Zammit	15 Feb 2012
356	H.E. & N Investments	15 Feb 2012
357	Confidential - not publicly available	
358	Panorea Christoforidis	16 Feb 2012
359	Confidential - not publicly available	
360	Vasilios Christopoulos, Theodoros Mylonas, Christos Apostolopoulos	16 Feb 2012
361	Margaret Wilson	16 Feb 2012

No.	Individual/Organisation	Date received
362	Sean Scanlon	16 Feb 2012
363	Anonymous	17 Feb 2012
364	Christopher Coucill	
365	Merilyn Phillips	17 Feb 2012
366	Confidential - not publicly available	
367	Liz and Yuanna	17 Feb 2012
368	Mark McHugh	17 Feb 2012
369	Northern Centre Against Sexual Assault	17 Feb 2012
370	Confidential - not publicly available	
371	Igor Saarinen	17 Feb 2012
372	Anonymous	17 Feb 2012
373	Leo Mauro	17 Feb 2012
374	Anonymous	17 Feb 2012
375	John Molligodde	17 Feb 2012
376	Peter Arrowsmith	20 Feb 2012
377	Trevor Bowden	13 Feb 2012
378	Henk Blumink	23 Feb 2012
379	M.J. Coleman	23 Feb 2012
380	Fotios Gondopoulos	23 Feb 2012
381	Confidential - not publicly available	
382A/B	Confidential - not publicly available	
383	Confidential - not publicly available	
384	Howard M Clydesdale	3 Feb 2012
385	Demetrios Dafnas	3 Feb 2012
386	Confidential - not publicly available	
387	Alan G Munro	7 Feb 2012
388	Trevor Bergman	7 Nov 2011
389	Anonymous	23 Feb 2012
390	Beverley Tatton	24 Oct 2011
391	Penny Forrest	25 June 2011
392	Confidential - not publicly available	
393	Confidential - not publicly available	

Appendix B

Research and technical papers

The inquiry commissioned research and reports to further its understanding of the taxi and hire car industry. The following papers are available at the inquiry website.

Commissioned research papers

Hara Associates – *Taxicab Regulation in North America*

Ipsos Social Research Institute – *Taxi and Hire Car Research 2011*

Jaguar Consulting Pty Ltd – *Overview and analysis of possible transitional strategies: Moving from a tightly restricted supply model to an open entry taxi industry*

Latitude Insights – *Consumer Detriment Research: Final Report*

The Hensher Group Pty Ltd – *Demand for Taxi and Hire Car Services in Melbourne*

Rhumb Consulting – *Taxi Industry Inquiry Information System Review*

Discussion papers and reports

Alan Johnston (Productivity Commission) – *Achieving reform in the taxi and hire car industry*

Deborah Cope (VCEC) – *Presentation to the Taxi Industry Inquiry Roundtable*

Dr Darryl Biggar (ACCC) – *Why and how should we regulate taxis?*

Dr Ron Ben-David – *Taxi reform: Putting an end to the rents and myths*

Dr Peter Abelson (University of Sydney) – *Speech notes with respect to the NSW taxi industry*

Dr Philip Williams (Frontier Economics) – *Observations on ACCC vs Cabcharge*

Jim Cox (Independent Pricing and Regulatory Tribunal) – *Taxi regulation in NSW: an IPART perspective*

Margaret Arblaster (AV Trans) – *The 'Airport Problem'*

Professor Peter Forsyth (Monash University) – *Achieving taxi reform*

Rex Deighton-Smith (Jaguar Consulting Pty Ltd) – *Lessons from international taxi market regulatory systems and reforms*

Victorian Council of Social Service – *The Voices of Taxi Users*

Appendix C

Compliance with the *Transport Integration Act 2010*

As the inquiry is being conducted by the Taxi Services Commission, it is required to have regard to a number of objectives and principles set out in the *Transport Integration Act 2010* (TIA).

The TIA sets out a vision for the transport system in Victoria for 'an integrated and sustainable transport system that contributes to an inclusive, prosperous and environmentally responsible State'. While the Act does not include specific provisions relating to taxis and hire cars, it contains a set of detailed objectives and principles that transport bodies must take into account in performing their functions. The Act also establishes the objects, functions and powers of all transport bodies, including the Taxi Services Commission, and brings these bodies under the Act's principle-based regulatory regime.

TIA objectives and decision-making principles

The Taxi Services Commission is required to give regard to a series of objectives under the following headings:

- Social and economic inclusion
- Economic prosperity
- Environmental sustainability
- Integration of transport and land use
- Efficiency, coordination and reliability
- Safety, health and wellbeing.

The Commission is also required to follow the decision-making principles set out in the Act, which are summarised as follows:

- Principle of integrated decision-making
- Principle of triple bottom line assessment
- Principle of equity
- Principle of the transport system user perspective
- Precautionary principle
- Principle of stakeholder engagement and community participation
- Principle of transparency.

Taxi Services Commission object, function and principles

The TIA defines the object of the Taxi Services Commission as being to pursue and promote major and enduring improvements in:

- The provision and accessibility of services in the commercial passenger vehicle industry
- Competition in the commercial passenger vehicle industry
- Innovation in the commercial passenger vehicle industry, including in the business structures, service delivery models, policies and procedures in the industry
- The safety of passengers and drivers of commercial passenger vehicles.

The Commission is also charged with promoting public confidence in the safety of the industry.

Section 115F of the Act establishes the function of the Commission as being to conduct an inquiry into the structure, conduct, performance and regulation of the commercial passenger vehicle industry. In conducting the inquiry, the Commission must have regard to the following principles:

- Raising the standard of customer service in the commercial passenger vehicle industry
- Integrating the commercial passenger vehicle industry with other forms of public transport
- Improving efficiency in the commercial passenger vehicle industry
- Providing education and training to drivers of commercial passenger vehicles
- Ensuring that the commercial passenger vehicle industry is regulated under a performance-based regulatory framework
- Improving the financial viability of the commercial passenger vehicle industry
- Alternative regulatory frameworks and the potential costs (including externalities) and benefits of those frameworks

- Any regulatory framework that is recommended being consistent with relevant health, safety, environmental and social requirements applying to the commercial passenger vehicle industry
- Achieving consistency in the regulation of the commercial passenger vehicle industry between States and on a national basis
- Reducing obstacles that prevent people from using commercial passenger vehicle services
- Improving the quality of commercial passenger vehicle services at State borders
- Promoting environmentally sustainable practices in the commercial passenger vehicle industry.

All reform options considered by the inquiry were assessed against the objectives and principles contained in the TIA.

Appendix D

Taxi dome lights

Dome lights located on the roof of taxis indicate availability for hire.

Dome lights convey important information to the public about the legitimacy of the vehicle as a taxi and also the availability of the taxi. Regulation of dome lights to ensure these outcomes are achieved is therefore important.

Regulatory requirements

The requirements for dome lights are contained in the *Transport (Taxi-Cabs) Regulations 2005* (under Part 4, sections 25 and 26) and in the *VicRoads Licensed Passenger Vehicle Standards – Taxis* (December 2005). Under the regulations, a taxi cannot be operated unless a sign (that can be lit) is fitted to the outside forward part of the roof. The light must be turned off in the following circumstances: when the taxi is hired; when it is not permitted to operate (including out of zone); if driving to a pre-booking; or if the taxi is not available for hire. The sign must be able to be turned off from inside the taxi.





Under the taxi standards, the roof dome must be a 'Napoleon hat' shape and have the word 'TAXI' displayed in letters at least 60mm high. Company identification may also be displayed in letters up to 60mm high. The dome must be illuminated with a front facing white light. The dome light must be illuminated when the taxi is for hire and the taximeter is in the disengaged position. An indicator must be visible to the driver that the light is on.

Taxis must also be fitted with amber indicator lamps on the shoulders of the roof dome. The left-hand (near-side) lamp must only be lit when the taximeter is operating on tariff 1. Both lamps must be illuminated for any other tariff. Both lights and sign must be approved by the licensing authority (in this case, the Victorian Taxi Directorate).

Wider dome lights may be approved to incorporate pairs of spot lights, tail lights, stop lights and directional indicator lights. However conditions around size, fixings, placement and compliance with stop and tail light design rules must be met.

Table D1 shows how the combinations for the three dome lights convey messages to potential taxi users.

Table D1 Dome light signals

Dome light illumination	Description	Illustration
Dome light illuminated, amber tariff lamps not illuminated	Taxi vacant – for hire	
Dome light and amber tariff lamps not illuminated	Taxi not for hire* *The NOT FOR HIRE sign on the passenger side sun visor should also be visible.	
Dome light not illuminated, one amber tariff lamp illuminated	Taxi engaged Standard hiring (5am to midnight) rates apply	
Dome light not illuminated, both amber tariff lamps illuminated	Taxi engaged Late night hiring rate operating (midnight to 5am for metro and outer suburban zones, and midnight to 6am for country and urban zones); or Operating at high occupancy tariff (five or more passengers or specific large vehicle booking)	

Source: VTD

Feedback on dome lights

A number of taxi users and drivers told the inquiry that the dome lights on taxis in Victoria are confusing and make it difficult for potential customers to see if a taxi is available. Some users suggest adopting displays similar to those used overseas, where a 'For Hire' indication is lit up or clearly displayed.

Seems to me that nobody knows what those [dome] lights actually mean. I frequently experience people trying to flag me down when I already have a passenger! When I don't stop I'm often treated to some not so lovely hand gestures.¹

What is the light being ON supposed to tell me? Similarly a taxi showing no illuminated dome light is meant to convey what message to me as it approaches and passes me totally ignoring my upraised arm hailing it. Why does the dome light not tell me something positive such as VACANT or FOR HIRE in big letters on the front and back? Or with modern LED lighting say one or the other plus the sign NOT FOR HIRE such as when the cab is on a shift change or answering a radio booking. Much easier for us and our foreign visitors to understand.²

Options for improvement

While two tariff lights may be of benefit to the regulator in working out whether the taxi is on the correct tariff, it is questionable whether they add any benefit to the taxi user in determining whether the taxi is available for hire. The inquiry considers that the current design of the dome lights should be reconfigured with a view to simplifying it for the benefit of potential taxi users.

There are many different ways that this could be achieved in terms of the design, size and location of the dome on the vehicle. Currently the regulation of dome lights in Victoria is quite prescriptive, and for many people, seems not to be achieving the objective of clearly indicating whether a vehicle is available for hire or not.

In a more competitive taxi market environment we would expect firms to differentiate their service offerings so that customers and potential customers could clearly identify them. One option could be to retain the main light and remove the two tariff lights (similar to the London black cab). Another way to do this is by having a unique dome design, as is the case in New Zealand and Singapore, which are both open markets. In New Zealand, the highly distinctive blue bubble dome of Wellington Combined Taxis has been central to that company's marketing efforts and its expansion into other markets across the country.

What's happening in other places?

New York

The New York City Taxi and Limousine Commission has determined that from later this year dome lights on New York taxis will be simplified to have two meanings: available if the medallion number is on and unavailable if the medallion number is off.

The current dome light includes a light on either side of the medallion number which indicates whether the taxi driver is on or off duty. This has led to confusion for taxi users and tourists. Public feedback gathered late last year was overwhelmingly in favour of a simplified dome light system.

Medallion owners will be required to pay for the new dome lights.



London

The well known London black cabs have a single dome light on the roof which says TAXI. When the dome light is on, the taxi is available for hire; when it is off, the taxi is not available for hire.



¹ Helen Tyack, Comment on Taxi Industry Inquiry Facebook page, 31 May 2011

² Creighton Kaye, Submission to the Taxi Industry Inquiry, SS08, p.1

Appendix E

Taxi brokers and assignment prices

The role of taxi licence and assignment brokers is a source of considerable contention in the industry.

The inquiry has heard from various industry participants, including the Victorian Taxi Directorate (VTD), allegations of unscrupulous (and possibly illegal) behaviour and claims that these practices have been facilitated or instigated by taxi brokers.

In its submission, the VTD states its concerns with the accuracy of assignment price data and with possible illegal payments:

Based on figures supplied to the VTD by trading parties and taxi licence brokers, the average monthly assignment price for the month of April 2011 was \$2531. However, the VTD regards the assignment price data with some scepticism, and does not have the ability to verify the accuracy of the figures submitted.... Metropolitan taxi licence assignment applications consistently show assignment (lease) rates of between \$2000 and \$3000 per month. It is unclear why there is such great variation in the value of identical products. Either information and communication within the market is insufficient to establish a true market price or figures submitted to the VTD do not honestly reflect the sums changing hands, or both.

...Over the course of the last 12 months the VTD Investigation section has conducted approximately 25 inquiries into this type of practice [illegal payments]. In most cases the victims are unwilling to make written statements through fear of reprisals from the industry, including denial of future assignment opportunities. The matter is further complicated as these practices can be disguised as business payments such as holding deposits, good will payments, management fees or (inflated) vehicle sales.

The VTD suspects that in many cases these cash payments are absorbed by brokers and intermediaries and are not forwarded to licence holders. The VTD has had discussions with the Australian Taxation Office and has referred one matter for its consideration as a 'test case'.¹

The inquiry sought to understand more about assignment prices and sought historical data from the VTD. These data, covering the period from mid-2008 to the end of 2011, included details of brokers who had notified the transaction to the VTD or to the Bendigo Stock Exchange (BSX) (which was responsible for maintaining a register of licensed traders and recording transactions until March 2011).

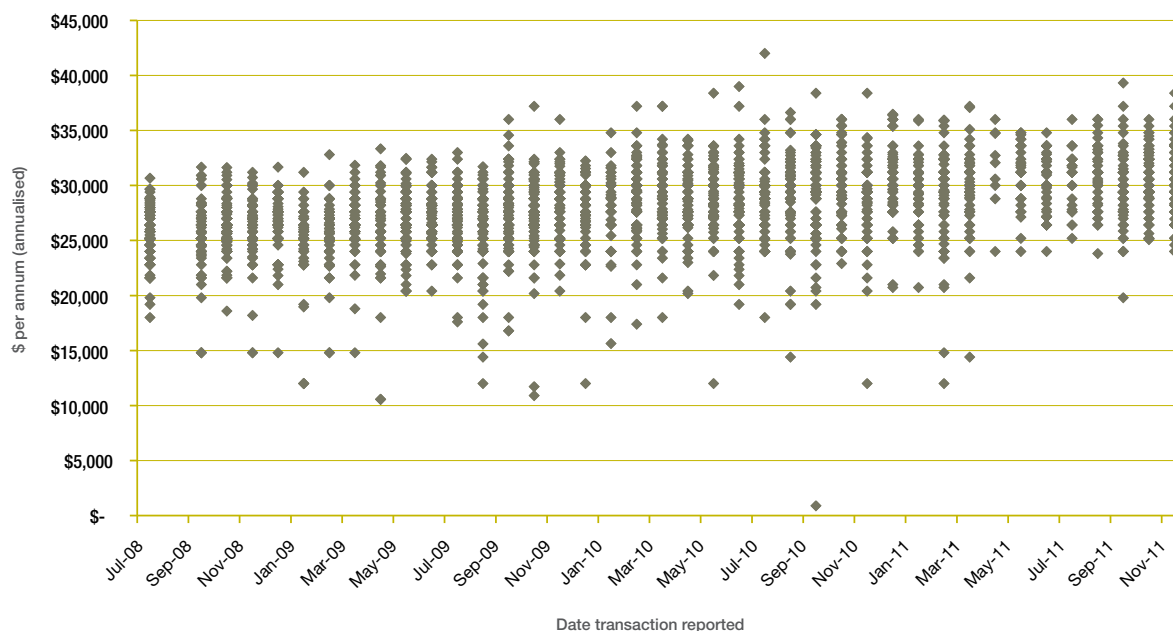
Analysis of the assignment data supplied by the VTD reveals, as the VTD suggests, significant dispersion in assignment prices. Dispersion simply refers to the spread of prices around the average price.

The inquiry recognises that all licences are not exactly the same and that this may justify some differences in price. In particular, guaranteed payment terms may be offered to the licence holder, the assignment may be for any period up to 36 months, or include other assets such as a vehicle. However, as shown in Figure E1, the inquiry's analysis of the price and associated data indicates that the conclusion of widely dispersed prices is robust in relation to at least some of these factors.

The persistently high level of price dispersion for assignments suggests that assignment prices are not fully efficient. Efficient prices would take account of all relevant information about the assets for sale, and, given the observed asset similarities, would be expected to trade in a much tighter price range than that observed.

¹ VTD, Op. Cit., p.30

Figure E1 Assignment price dispersion, 2008-2011



Source: VTD, Inquiry analysis

Notes: Monthly prices have been annualised

The inquiry received confidential submissions from some sources claiming that brokers had been driving the price of assignments up; often using nefarious practices that take advantage of operators' weak bargaining positions. For example, this might occur if a broker becomes aware that an operator has financial commitments due and an expiring assignment.

The inquiry also received a survey response from taxi brokers AMB Australia arguing that currently the true market value of assignments is in the vicinity of \$3,200 per month (\$38,400 per year). AMB suggests it has a waiting list of operators willing to pay that amount. It says that licence holders and operators engage in cash transactions without records and that, from time to time, AMB is approached to facilitate these kinds of payments. However AMB told the inquiry they do not engage in cash transactions or offer incentives relating to taxi licence or assignment transfers.² Another broker, National Taxi Brokers, submits that assignors always request cash as a 'sign on' fee, but that it does not comply with these requests.

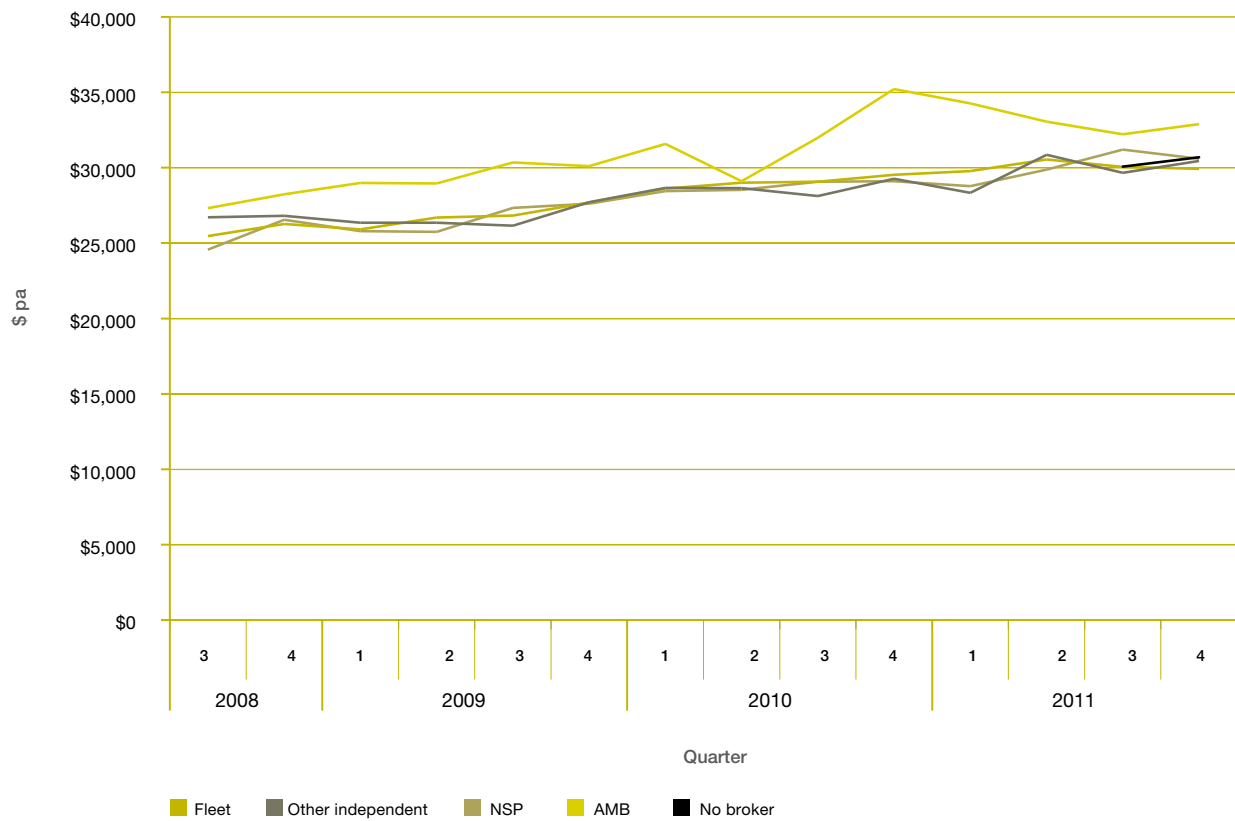
Further analysis of the VTD data reveals the following:

- One broker (AMB Australia) has consistently recorded prices for assignment transactions that are higher than those reported by other brokers (see Figure E2).
- Other kinds of brokers – whether affiliated with NSPs or fleet operators, or wholly independent – have average prices that are lower but very similar (see Figure E2).

- All brokers report a considerable degree of price dispersion in their transaction prices. The spread of prices is much larger than one would expect for an asset that is, for the most part, identical (see Figure E3). This even applies to situations where no brokers were engaged (data only relates to April to November 2011).
- The length of term and the inclusion of a vehicle do not have any significant effect on prices paid (see Figure E4).

² AMB Australia, response to Taxi Broker survey

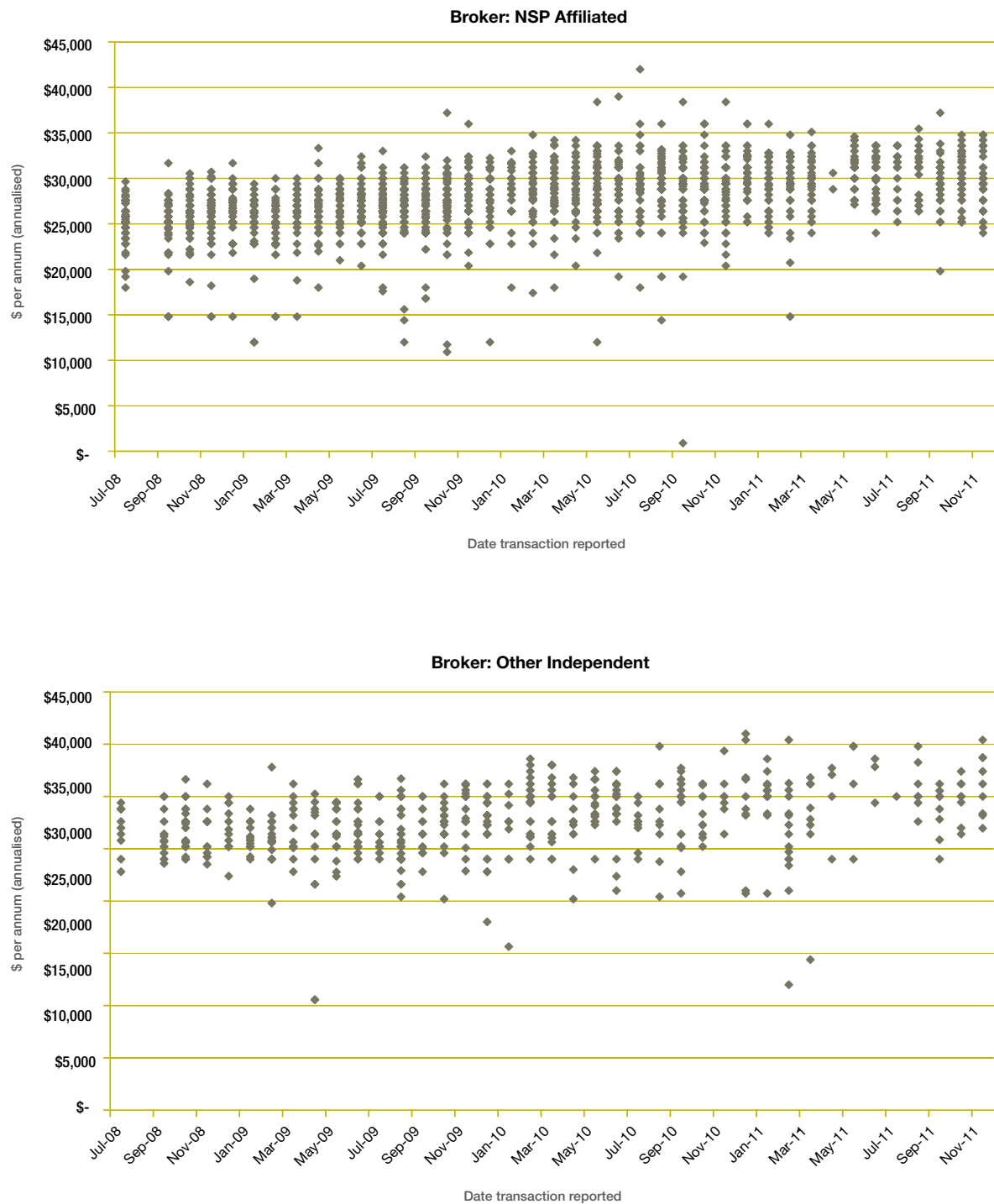
Figure E2 Average reported assignment prices

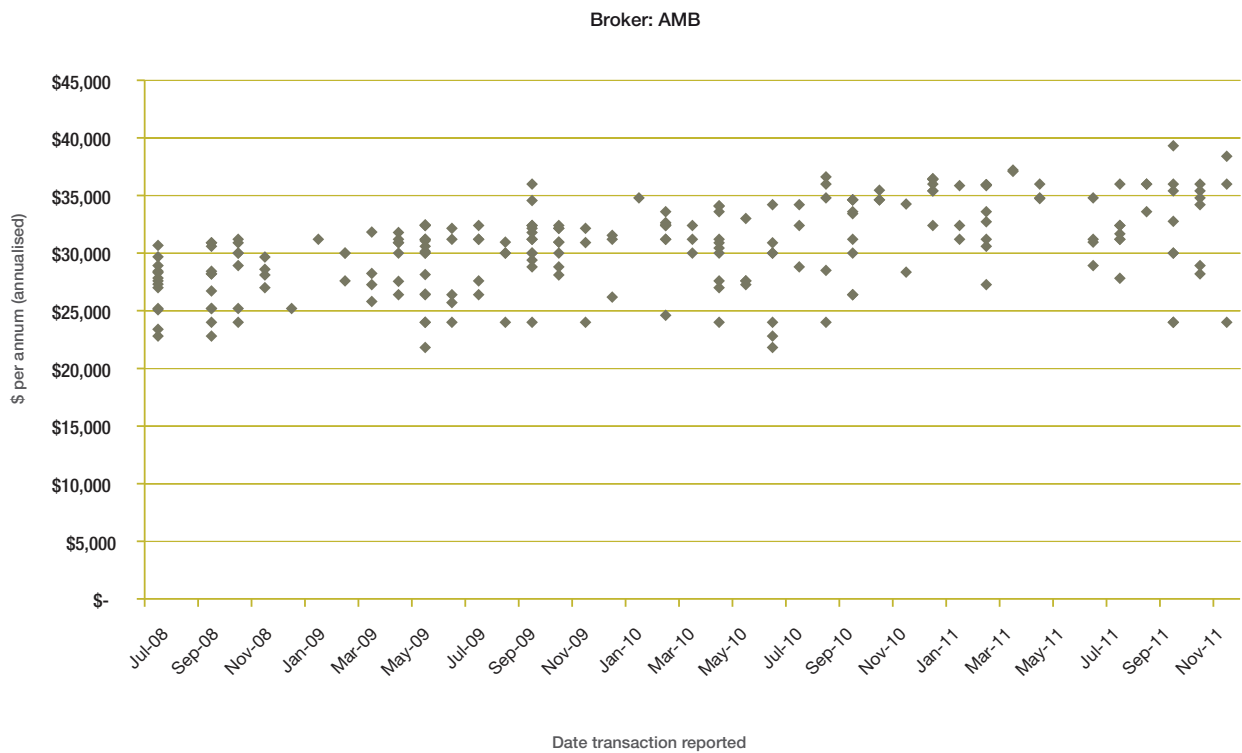
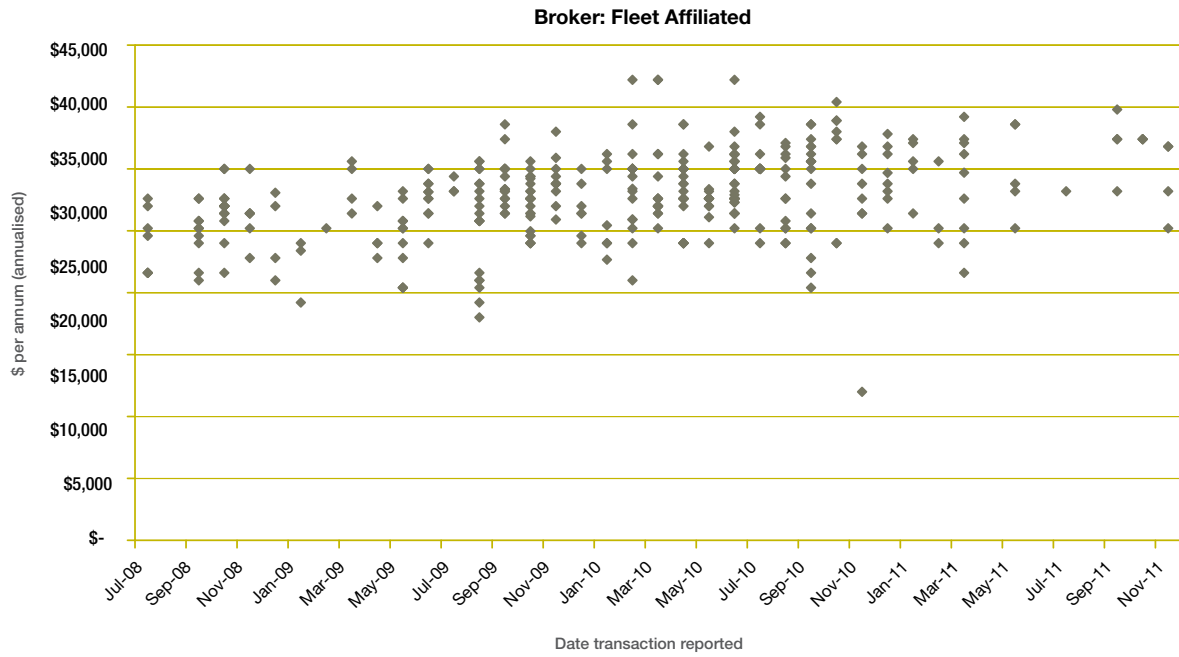


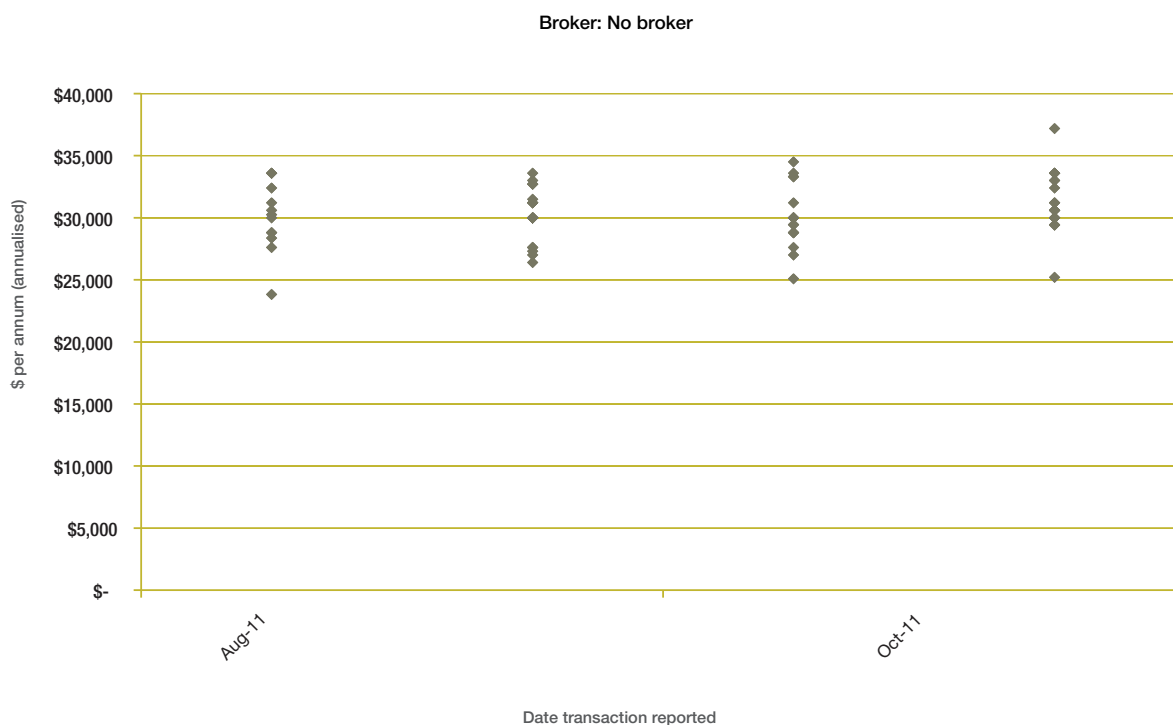
Source: VTD, Inquiry analysis

Notes: Monthly prices have been annualised and averaged across the quarter

Figure E3 Price dispersion in reported assignment prices, by type of broker







Source: VTD, Inquiry analysis

Notes: Prices have been annualised. Transactions are recorded monthly except between March 2011 and November 2011.

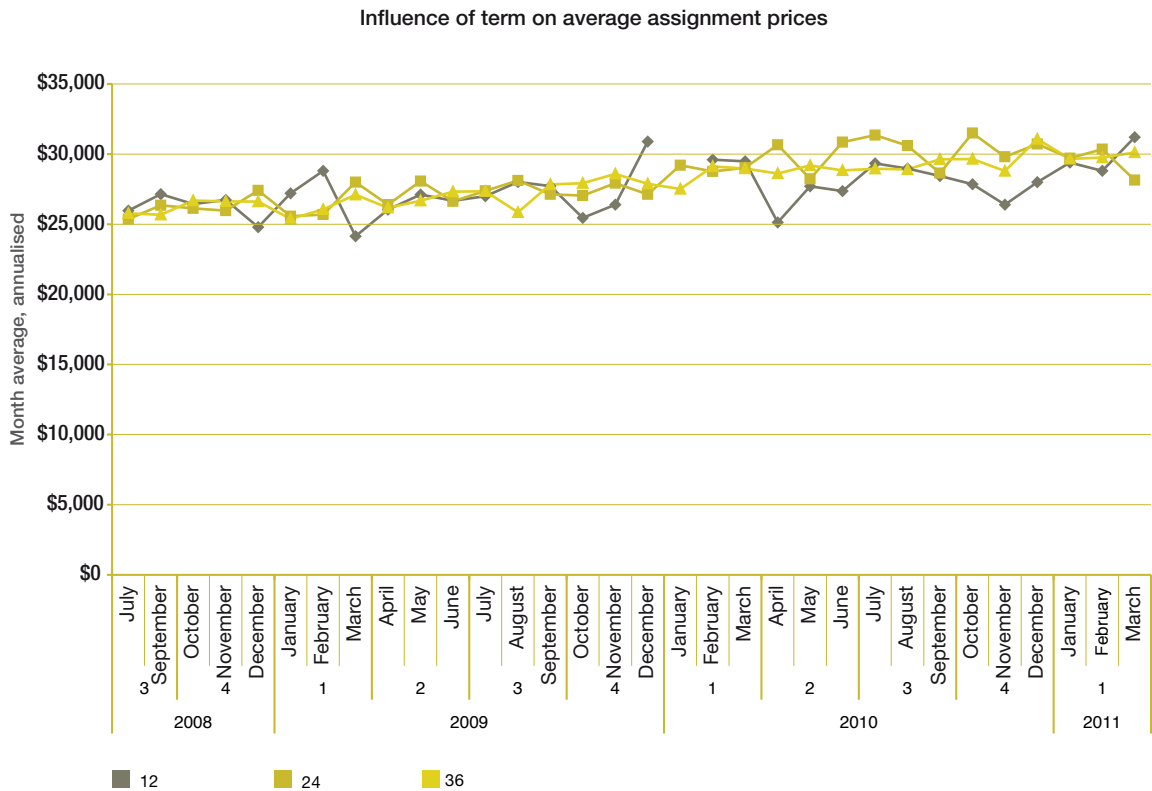
The inquiry has heard a number of reasons for the observed patterns, including possible undisclosed payments and other kinds of fees, related party transactions (such as between a licence owner's superannuation fund and the licence owner acting as an operator), longstanding relationships between licence owners and operators, and the influence of parties with strong positions in related markets (particular NSPs). Few parties have been willing to provide public submissions on these matters to the inquiry and this has limited the inquiry's understanding of the operation of this market.

The problems with the operation of the assignment market that have been referred to the inquiry are concerning. In principle, the inquiry sees that brokers can fulfil a legitimate role in finding the best deal for their clients (be they sellers or buyers of licences or assignments). However, there are two reasons why the inquiry is concerned about the prevailing system of licence and assignment brokerage:

- The serious allegations regarding cash payments and under-reporting
- The wide dispersion in assignment prices, which suggests that either operators or licence holders are not receiving an efficient price that captures all relevant information about the value of a licence.

The inquiry seeks further views of licence owners, brokers and operators on the benefits and costs of the prevailing system.

Figure E4 Influence of assignment term and inclusion of a vehicle with the assignment on price



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