

Review of aspects of the Taxi Industry in Perth and Western Australia



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COMMISSIONED BY



For the better

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List of acronyms

Apps.	Smart phone applications
BSD	BSD Consultants
DoT	Department of Transport, Western Australia
ERA	Economic Regulation Authority of Western Australia
ESC	Essential Services Commission, Victoria
IATR	International Association of Transport Regulators
IPART	Independent Pricing and Regulatory Tribunal, New South Wales
MPT	Multi-Purpose Taxi
NCC	National Competition Council
NCP	National Competition Policy
PT	Private Taxi
PSBU	Passenger Services Business Unit (of the Department of Transport)
PBT	Purpose Built Taxi
RAC	The Royal Automobile Club of Western Australia
SCV	Small Charter Vehicle
TCB	Taxi Control Board
TDS	Taxi Dispatch Service
TIB	Taxi Industry Board
TMC	Taxi Management Company
TUSS	Taxi User Subsidy Scheme
VTII	Victorian Taxi Industry Inquiry
WAT	Wheelchair Accessible Taxi

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Executive summary and recommendations

This report was commissioned to assist the RAC's advocacy work for road users in WA. Taxis are an essential transport mode for many people and RAC is seeking to ensure that high quality services are readily available for users at affordable prices. RAC's mobility agenda emphasises the importance of safety, accessibility (affordability and availability) and sustainability of transport options.

The report is timely given the recent emergence of smart phone booking applications and renewed calls for reform of taxi regulation.

The report examines the current regulation affecting taxis and substitute services and its evolution, particularly over the past decade. Significant proposals for reform to taxi regulation were made in the late 1990s-early 2000s prompted by the first wave of National Competition Policy (NCP) Reforms, but these proposals were not fully implemented, essentially because they failed to gain industry support. However, more gradual reforms since then have established a launching pad today for WA realistically to achieve more substantive reform. The key to achieving this is ensuring the views of users are front and centre in the discussion.

In line with this thinking, RAC commissioned independent research of the experience and views of taxi users in Perth and regional areas of WA. The key results of this work and other user studies are summarised in chapter 3 of the report. These studies indicate that users are far from being fully satisfied with the taxi services available to them. Indeed, 84% of survey respondents indicated they had at least one negative association with the industry, and 6 out of 10 experienced a problem with taxis in the last 12 months. Although overall levels of satisfaction have now stabilised at higher levels than experienced a few years ago, advice to the Department of Transport (DoT) is that there are few aspects of in-taxi experience that can be considered to have reached a high or even an acceptable standard.

There are a number of key concerns users have about the operation of taxis. These are their high cost, lack of reliability and timeliness with bookings, the behaviour of drivers, and a perceived lack of safety, especially for women travelling alone at night. There are indications that negative perceptions are having an impact on the demand for taxis with some users shifting to hire cars (Small Charter Vehicles) where satisfaction levels are higher. There are also significant concerns about the operation of wheelchair accessible services for users with disabilities. Service levels here fall well below what is considered best practice. Many of the concerns of users can be linked directly with the licensing system for taxis which influences their availability, the fares they charge, and the service quality they provide.

Chapter 4 of the report discusses the outcomes of previous reviews of the taxi industry that have relevance to consideration of the industry today. The first two reports discussed relate to the early NCP reform process. BSD Consultants prepared a

comprehensive independent review which concluded that many regulations affecting taxis could not be justified on public benefit grounds. It considered the limitation on plate or licence numbers to be the most important of these regulations.

It recommended that there be much tougher standards for drivers wanting to enter the industry as an alternative to restricting licence numbers. A phase out of these restrictions over a defined transition period was proposed. This would be achieved through a licence buyback scheme to be funded from the proceeds of leasing licences at high rates for a number of years. The consultants supported continuation of maximum fare regulation.

Previous governments in WA had expressed their opposition to ‘deregulation’ of the taxi industry and the BSD report languished. However, under pressure from the National Competition Council (NCC) a new government initiated another round of consultation with the industry, led by the Hon. Graham Giffard MLC. It had a particular concern for the position of drivers in the industry, but also a desire not to antagonise other industry interests. It proposed a small increase in licence numbers with future increases being tied to industry viability and performance, a voluntary licence buyback, and the leasing of government licences to drivers at rates below the existing lease rates for privately owned licences. The Government implemented these recommendations and the NCC indicated that it had just done enough to meet the requirements of the Competition Principles Agreement.

Three other recent reports have renewed calls for taxi industry reforms. The first was by the Economic Regulation Authority of WA (ERA) in the context of its broader Inquiry into Microeconomic Reform in WA. The Authority was unequivocal in its view that quantity restrictions on taxi licences should be removed, as should restrictions on small charter vehicles which prevent them from competing with taxis; and that no compensation should be paid to licence holders.

The Victorian Taxi Industry Inquiry (VTII), led by the authors of this report, was a comprehensive examination of the industry prompted by poor and declining service standards. The Government sought sweeping reform to deal with the long standing and deep rooted underlying causes of these problems. Licence values of around \$500,000 when the Inquiry commenced were a major obstacle to achieving this reform. Although the Inquiry favoured an open market approach, where the only barriers to entry related to safety and quality requirements for drivers and their vehicles, in the end, this constraint led to a more modest proposal. This was to replace quantitative restrictions on licences with an ‘as of right’ price-based government lease approach. The lease price was to be set below existing privately owned lease prices to benefit drivers and maintain restraint on fares. This was the foundation to the integrated package of 139 reform measures recommended by the Inquiry and subsequently substantially implemented by the Government.

Finally the Draft Report of the Harper National Competition Review has also renewed calls for the reform of restrictions on competition in the taxi and related industries. It has pointed to the Victorian reforms as an example of what is possible.

Chapter 5 of the report considers the current structure of the taxi industry and its regulation in detail. The two tier structure of the industry is highlighted with taxis providing both rank and hail services and pre-booking services, and small charter vehicle and country Private Taxi operators restricted to pre-booking services.

The supply side of the taxi industry is characterised by dispersed ownership of licences with an estimated 40% of licences being in the hands of investors who otherwise have little other role in the industry. These licences are mainly leased to Taxi Management Companies. Overall, an estimated 55% of licences are owned or leased by drivers. All operators must be affiliated to a Taxi Dispatch Service (TDS) with Swan Taxis being the dominant TDS accounting for around 90% of bookings. Drivers who do not own or lease licences operate under bailment arrangements and are subject to direction from their TDS. All drivers are required to have a T extension to their ordinary licences, which sets a relatively high standard for entry to the industry. New legislation introduces a demerit points system for drivers and should facilitate more effective compliance and enforcement of minimum standards.

The demand for taxis fluctuates significantly during the day, week and month. Demand increases dramatically on Friday and Saturday nights, which requires a flexible supply response. A little over one-half of taxi trips are pre-booked, but the proportion of rank and hail jobs is higher at peak times. In total there were 13.4 million taxi trips recorded by the two main dispatch companies in 2012 and 12.9 million in 2013. The decline in trips continued into 2014.

Customers vary in their responsiveness to fare changes and waiting time changes with low income consumers being less able to avoid fare increases and consumers with disabilities showing a big negative response to increases in waiting times. It is likely that consumers have become more resistant to on-going increases fares.

Taxi legislation is fragmented. There are currently three Acts and three sets of Regulations, with additional regulations yet to be prescribed under the Taxi Drivers Licensing Act 2014. In all there are around 230 pages of legislation. In addition, many regulatory requirements are prescribed as licence conditions. The Taxi Plate Operating Conditions for conventional leased plate sedans are 13 pages long. Some of the legislation has been in place for many years and needs to be rewritten for modern times.

Various categories of licence are recognised under the legislation and the key characteristics of these are identified by the report. The main licences of interest are the metropolitan and country taxi licences, the Omnibus – Small Charter Vehicle (SCV) licence and the Private Taxi (PT) country licence. Metropolitan taxi licences include Conventional and Multi-Purpose licences, Peak Period and Restricted Area

licences. Government leased licences comprise just over one-half of the 2,215 metropolitan licences with the remainder being privately owned. There has been little change in maximum plate lease rates and shift lease rates since they were first set.

Chapter 6 discusses more fully issues the accessibility issues concerning the availability and affordability of taxis. Both these matters are strongly influenced by the number of licences on issue. The evidence indicates that quantitative restrictions on licences have continued to apply over the past decade. Ad hoc political decisions have determined licence releases. The legislation limited licence numbers according to a licence: population ratio measure up to 2008. Since then, some account of performance data, including vehicle utilisation data, has been taken.

A side effect of licence number restrictions is that privately owned licences, which are transferrable, have acquired a significant market transfer value. The evidence indicates that licence values have continued to increase in real terms since 2004 despite the fact that all new licences since then have been leased by the Government to drivers at rates significantly below lease rates for privately owned licences. It seems likely that the caps on lease rates are not fully effective given the restriction on licence numbers. Perth licence values are currently around \$290,000, marginally above those now prevailing in Melbourne.

Maximum fares for taxis have increased annually over the past decade at a rate marginally above the Perth CPI All Groups rate. A cost model has been developed and costs are escalated using suitable indexes. This approach has significant weaknesses in that it is not closely coordinated with licensing decisions and has failed to set an efficient cost base. Built into the cost base is the lease value of perpetual licences which arises from the restriction on licence numbers. The cost based approach does not incorporate productivity improvement factors and does not take account of changes in demand. Despite falls in demand in recent years, fares have continued to rise.

Inclusion of the lease value of licences in the calculation of fares means that fares are around 16% higher than they should be and that customers are paying around \$3.30 more for an average trip as a result.

These criticisms of fare setting also apply to most other jurisdictions in Australia, although both NSW and Victoria have made changes in recent years aimed at ensuring greater expertise and independence in fare setting is achieved. The structure and level of fares in Perth is roughly comparable to other Australian jurisdictions.

The ERA has questioned the continuing need for fare controls and proposed an alternative notification scheme. A fare notification scheme now applies for country towns in Victoria. If licence number restrictions were removed or relaxed, it will be important that maximum fares be reduced and maintained in place, at least, during the period of short term adjustment that would inevitably follow. The case for maximum fare regulation is stronger in relation to rank and hail work than for pre-booking work.

Consumers have less scope to shop around when looking for a taxi on the street than they do if making a booking. Local or situational monopoly is more of a reality in these circumstances.

Chapter 6 also comments briefly on issues relating to drivers. Drivers are in a weak bargaining position in dealing with licence holders and operators and this is made worse by the restrictions on licence numbers. Market pressures are such that the hourly remuneration of bailee drivers is squeezed to relatively low levels, significantly below what award wages would be. Regulating shift lease rates appears not to have been effective in overcoming this. Making licences more readily available to drivers has been beneficial, but the benefit has gone to relatively few. Reform to driver arrangements should be part of any broader reform program.

Finally, it is noted that the distortive impact of licence number restrictions has necessitated many other restrictions which otherwise have little justification. These include restrictions on where and when licences can be used, how many hours vehicles have to be driven for, the number of taxi licences that can be owned, and for SCVs and PTs the type of vehicle that can be driven and the minimum price that has to be charged for any trip.

Chapter 7 then turns to consider other mobility issues particularly concerning safety, wheelchair accessibility and sustainability of taxis. Safety concerns are the paramount reason for regulating taxis, SCVs and PTs. Drivers work in a high risk environment and passenger confidence in the safety of taxis is a critical factor affecting demand. A number of significant initiatives have in recent years been taken under the banner of the Taxi Action Plan to enhance safety. It is generally appropriate that taxis providing rank and hail services have stricter safety requirements than SCVs and PTs. In the past, the general approach to safety issues has been ad hoc and reactive. A rigorous cost benefit framework with an outcome focus should be applied in the future. It is almost certainly the case that this would lead to an increased emphasis on Purpose Built Taxis (PBT). The PBT trial now operating is a good development, but the safety of the current vehicles needs to be assured, and the vehicles should be able to carry wheelchair passengers. Also taxis should comply fully with the regulations affecting child restraints which all other motorists have to comply with.

The accessibility of taxis for passengers with disabilities leaves a lot to be desired and should be given much more attention. An improvement process commenced by the Taxi Industry Board (TIB) needs to be followed through and new initiatives taken to improve service levels. TDS service performance levels for Multi-Purpose Taxis (MPT) fall well below target levels and a new approach to improvement appears to be needed. The lack of confidence in the TDS is illustrated by the fact that 90% of bookings are estimated to be made by the customer directly with the driver. MPTs account for only 5 % of total licensed vehicles, which is one-half of the proportion in Melbourne. The high cost of these vehicles is a problem and excessive regulatory

requirements seem to contribute to this. Greater use of PBTs would help to deal with the problem.

Sustainability considerations should be reflected in the on-going management of the taxi industry. Key measures to enhance sustainability include expanding the use of taxis as a substitute for less fuel efficient and more polluting private vehicles or public transport; ensuring taxis operate with maximum efficiency and utilising vehicles that have high fuel efficiency and economy and low carbon and other emissions. Limited assistance has been given by the Government to encourage the take up of more fuel efficient vehicles, but the great majority of taxis in Perth have converted to LPG or are hybrids. There may be a case for Government to provide more information to drivers on the economics of different fuels and to monitor closely developments with the use overseas of electric taxis.

Chapter 8 of the report specifically deals with the pre-booked market and the issues surrounding smart phone applications. Because of information asymmetry problems, where operators have more information than their customers, there is a need for minimum standards to apply to the drivers and vehicles engaged in pre-booked services. More rigorous standards, however, should apply to taxis engaged in rank or hail work. In general it is desirable to have regulatory neutrality between competitors, but this is not possible if taxis have higher and more costly standards than the specialist pre-booked service providers. The answer in the past has been to create artificial ways through regulation to increase costs for the specialist pre-booked service providers. For the SCV and PT licence categories this has been done by requiring them to use more expensive luxury cars and by setting a high minimum price that they must charge, irrespective of the cost of the trip involved. These regulations are unnecessarily restrictive and costly for consumers, and a better approach would be to remove them and set an annual licence fee at an appropriate level in order to achieve the objective. Removal of number restrictions on taxi licences will reduce the licence costs taxis now required to cover and thus the disadvantage they would otherwise have in competing with SCVs and PTs, but it would not do so completely.

The ERA proposed additionally that the specialist pre-booked service providers be allowed to do rank and hail work. In effect, this would remove the distinction between SCVs/PTs and taxis entirely. A better approach it is suggested, one which maintains the two tier structure, would be to remove the maximum fare restraint from taxis in so far as it affects pre-bookings. This would provide greater flexibility for taxis to differentiate their services and compete with SCVs/PTs.

Smart phone applications, which have developed rapidly over the past 3-4 years, highlight the need for major reform to the regulatory framework affecting taxis and specialist pre-booked services. The potential benefits of this new technology for consumers and for drivers/operators are significant. Regulation should not prevent

their use unless it is has to do so in order to address market failures, such as the information asymmetry underlying concerns about safety.

Where the new technology providers use existing licensed taxis or SCV/PT vehicles and drivers, few new issues arise, as long as existing regulatory requirements are adhered to. Experience suggests, however, that the existing regulation may not support the business model of the new firms. There should be compliance with the existing law, but if this law is inappropriate, it should be changed. The main commercial impact of the new technology here is on the TDSs, which will be under pressure to respond to maintain market share.

A more challenging situation arises with respect to commercial ridesharing where the new technology provider seeks to link passengers with drivers and vehicles which are not licensed as commercial providers of transport services. This raises the issues of what minimum standards should apply in these cases and could self-regulation by the technology providers be an acceptable alternative to government regulation. It is suggested that existing law requires that the providers of commercial ride sharing services and their vehicles would at least need to be licensed under the Omnibus/SCV or PT licences. The driver and vehicle requirements are not unduly onerous and seem appropriate. However, the licence conditions requiring the use of luxury vehicles and minimum pricing would apply. They are either going to be ignored or, as previously suggested, they should be abandoned.

Internationally there has been debate over whether smart phone applications should be regulated under taxi laws or under hire car laws. The International Association of Transport Regulators (IATR), representing taxi regulators, says the former; while the Californian Public Utilities Commission (CPUC) says the latter, with some modifications. In particular, the CPUC saw a need to also directly regulate the technology providers, which it designates as Transport Network Companies. This would ensure adequate insurance and other requirements were put into place to protect the public. It is suggested that the approach adopted by the CPUC is generally the appropriate one to follow in WA. This would involve registering the technology provider, requiring drivers to obtain an F extension licence, having the vehicle licensed, but removing the licence conditions requiring luxury vehicles and minimum fares to be set.

Chapter 9 of the report briefly discusses experience of other jurisdictions in removing quantity restrictions on licences. This experience has been quite extensive now and lessons have been learnt. Critics have highlighted negative aspects that some cities in the USA encountered when they deregulated in the 1980s, but more recent experience has been regarded positively by the OECD and others. Countries which have removed quantity restrictions on licences include Sweden, New Zealand, Netherlands, Ireland, Singapore and Japan. Individual cities in the UK and USA have also removed these restrictions. In Australia, the experience of the Northern Territory in removing and then later re-introducing quantity restrictions is instructive.

It is necessary to understand the circumstances in which quantity restrictions have been removed to assess observed responses. Important considerations here are the degree of restriction that has existed in the past, what other changes to regulation may also be made at the time, and what regulation continues to exist. Experience suggests it is desirable to retain fare controls while the market adjusts to an increase in entrants and to retain effective quality controls on drivers and vehicles. The removal of quantity restrictions on licences has generally been strongly resisted by industry interests and there are risks that governments will over-react to what will be painted as a 'flood' of new entrants. Nevertheless, it is sensible to retain a capacity for the regulator to intervene temporarily if markets do become too unstable. It is too early to assess the Victorian experience of relaxing, but not removing, entry controls.

Chapter 10 draws on the discussion in previous chapters to present a picture of the way forward. Key aims should be to remove from fares the capitalised value of licences privately owned, which reduces the welfare consumers derive from taxi services and transfers surplus to licence owners; enhance the role competitive market forces in determining the number of licences issued by the Government; maintain safety; and provide realistic opportunities for new innovation.

Reforms to achieve these aims need to be measured and realistic, build on the existing reform platform created over the past decade, and reflect the capacity to absorb and fund change in the short term. Ideally also, reforms should be comprehensive in that they deal not just with the key issue of numbers restrictions on licences, but also the secondary consequences of these restrictions on other regulations.

The review recommends that in future entry to the taxi industry be controlled through the price of government leased licences only, without imposing on top of this any restrictions on licence numbers. This lease price could be further reduced from the level it is at today. A substantial discount from the set lease price should be provided to operators of Purpose Built Taxis and Multi-Purpose Taxis, which are significantly more costly to purchase and run than are ordinary sedans. The reduction in the licence lease price will cause some reduction in licence transfer values. A voluntary buyback scheme could be implemented with the purchase price being based on the perpetual value of the government lease price. Licence holders should be able to make their own choices as to when and where they conduct their businesses and hence other unnecessary current restrictions should also be removed.

Maximum fares for taxis should reflect the lower price set for government leased licences. Maximum fares should be retained for rank and hail taxi services, but should generally be removed for pre-booked services, in line with the existing approach to specialist pre-booked service providers. Maximum fares for pre-booked services should, however, be retained where fares are subsidised under TUSS.

There should be a specific licence for pre-booked service providers, which should be able to encompass drivers and vehicles used in commercial ridesharing.

The existing luxury vehicle and minimum pricing restrictions attached to SCV and PT licences should not apply to the pre-booked licence. Technology providers of smart phone booking applications should be registered, as are the TDSs now. The requirements for registration should include insurance cover.

There is significant scope for further improvements to be made in relation to the safety, accessibility and sustainability of taxi services as previously outlined. Again this points to the need for a comprehensive approach to reform. The legislation governing the taxi and hire car industries should be reviewed and modernised. Improved governance arrangements for the regulator should be considered as part of this review. The Victorian reform experience demonstrates both the need for and the benefits of a comprehensive approach to reform.

The two appendixes to the report outline the relevant legislative history of restrictions on taxi licence numbers and provide an overview of the current legislative provisions.

The recommendations of the report are as follows:

1. Remove from the fare setting methodology the cost category of sub-lease fees and replace it with the cost of leasing a licence from the Government.
2. Review the annual fee set for the Government plate lease. Two options have been identified here. The first and preferred option is that the fee for a (conventional sedan) Government licence be reduced to \$10,000 per year. The alternative option is that this fee be set initially at the current level of \$13,390/year.
3. Remove the quantitative restriction on the number of licences available for lease from the Government at the current price.
4. The Government should consider a voluntary buyback of privately owned licences.
5. The voluntary buyback prices could be based on the perpetual value of the Government lease price.
6. Regard should be had for the stability of the industry, as well as the administrative costs of the licensing scheme, in setting the Government lease price.
7. The ERAs expertise in pricing and economic analysis should be an input into decisions concerning an appropriate Government lease price for a licence.
8. The government licence lease fee for PBT vehicles should be set at a level which just covers the administrative costs of licensing.

9. Licences should be available to any person/entity satisfying the specified criteria and making the appropriate payment. Standards should be based on competency not experience.
10. The system of bailment under which ordinary drivers operate should be reviewed as part of the proposed licensing reform program. The system is exploitative and undermines good service performance.
11. There should be no restriction placed on the number of plates that can be leased by any one individual/entity. The regulator should liaise with the Australian Competition and Consumer Commission to determine any limits on concentration.
12. There is no need to limit the percentage of leased conventional licences to total conventional licences.
13. There should be a review of the necessity for peak period and restricted area licences and of licence conditions relating to minimum numbers of shifts and hours in light of the removal of quantitative restrictions on conventional licences.
14. The mandatory requirement for affiliation with a TDS should be removed if its objective can be readily achieved by other means. The removal of mandatory affiliation should be used to help promote a more competitive market structure for dispatch services.
15. In the absence of quantity restrictions on entry and mandatory affiliation requirements the TDSs should also be allowed to lease government licences and acquire privately owned licences.
16. Legislation should be enacted to ensure that TDS organisations are subject to the same service guarantee provisions as apply to other service providers under the Australian Consumer Law.
17. It is desirable that any reforms to restrictive licensing arrangements incorporate both metropolitan Perth and non-metropolitan markets. There is no reason why the approach to reform proposed in this report could not also apply to non-metropolitan markets.
18. The same age and probationary licence restrictions that apply to applicants for T extension licences should apply to applicants for F extension licences where these are to be used in conjunction with SCV or PT licences.
19. SCV and PT licence conditions requiring licence holders to utilise only luxury vehicles and charge minimum prices for their services should be abandoned and replaced by a set annual licence fee.

20. Whilst maximum fare controls for rank and hail taxi work should be retained in the short term, maximum fare controls for pre-booked services provided by taxis should be removed, except where fares are subsidised under TUSS.
21. Non-cash electronic payment service fees charged by taxis should be subject to controls. WA should follow Victoria and NSW in imposing a cap of 5% on these fees.
22. Consumer education and information programs should be undertaken to advise consumers of the new arrangements affecting taxi fare setting, specifically the removal of controls from pre-booked services.
23. Technology providers of smart phone booking applications used in the taxis and SCVs and for commercial ride sharing services should be registered, as are taxi dispatch networks.
24. Providers of smart phone booking applications used for commercial ride sharing services should be required to provide an appropriate minimum level of insurance cover for these services.
25. Drivers providing commercial ride sharing services should be required to obtain an extended licence. Licence requirements do not have to be as extensive as for a taxi driver, but do need to include a criminal record check and ensure appropriate insurance cover.
26. Vehicles used to provide commercial ride sharing services should be licensed and subject to annual inspection.
27. An MPT Review Team with significant user representation should be established to complete the work of the Taxi Industry Board (TIB) on MTPs and consider and promote ideas for service improvement.
28. Drivers should be given more incentives to undertake wheelchair work by further reducing the Government lease fee for a MPT licence in line with the PBT fee and by removing unnecessarily prescriptive regulatory requirements.
29. Consideration should be given to removing the requirement that an MPT be able to carry a minimum of two hirers seated in their wheelchairs.
30. The regulator should further encourage the use of PBTs for wheelchair use. Any technical or operational matters preventing the use of these taxis by wheelchair users should be dealt with expeditiously.
31. Taxi drivers should no longer be exempt from the general requirements relating to the use of child restraints in their vehicles.
32. The legislation relating to taxis and other small commercial vehicles should be reviewed and updated to reflect modern requirements. The legislation should

apply across the State rather than having separate legislation applying to metropolitan Perth and non-metropolitan regional areas.

- 33.** The Government should in reviewing the legislation consider abolishing the TIB and create an independent regulator for taxis and other small commercial vehicles separate from the regulation of public transport. This regulator needs to be appropriately resourced and operate in a fully transparent and accountable manner.
- 34.** The WA Government should consider the experience of the Victorian Government in reforming the taxi industry and some of the lessons this experience provides. In particular, the comprehensive approach to reform and the emphasis placed on managing the reform implementation were important.

1 Introduction

1.1 A decade of regulatory reform and challenge for the future

Major reforms to the regulation of taxis in Perth have been implemented over the last decade. Reforms have been prompted by NCP requirements, rapid growth in demand due to the booming economy, and deteriorating service quality performance. Further reform is unavoidable given technological developments with smart phone applications, and has been called for by the ERA and the Harper NCP Review.

In 1994 a new Taxi Act was passed by the WA Parliament, which aimed to achieve a greater integration of taxis with public transport; established a Taxi Industry Board (TIB); and promoted greater self-regulation by the industry, including enhanced responsibility for service performance by licence owners and taxi dispatch networks.

The Taxi Amendment Act 2003 amended the Taxi Act to allow for the leasing of taxi licences by the Government to drivers for the first time.

The Taxi Act was further amended in 2005 to allow for the buyback of up to 56 transferrable Multi-Purpose Taxi (MPT) licences, to be replaced by leased licences.

In 2007 amendments to the Taxi Act were passed to allow for more leased peak period licences to be issued, to allow for owners of peak period licences to acquire conventional licences, and to enforce taxi conditions, including requirements relating to on-road time.

In 2011, the Government developed a Taxi Action Plan, which covered a range of areas including driver standards, taxi availability, taxi security, increased compliance and enforcement, and taxi rank development. The Taxi Drivers Licensing Act was passed in 2013 and will come into effect over the next 18 months.

There are many aspects of the regulation of the taxi industry in WA that put it ahead of other jurisdictions in Australia. Driver quality and vehicle safety standards have been well developed and continue to be enhanced by new initiatives such as improved vehicle security cameras. Performance monitoring has also been in place for many years. However, despite these efforts, there is still considerable user dissatisfaction with aspects of the performance of the industry. Most notably there is dissatisfaction with the cost of taxi services, the reliability of these services, especially for disabled passengers, the ability to meet late night peak demands, and the assurance of safety for women passengers at night.

The underlying source of many of the problems, as discussed in this report, is the restrictive licensing system, which has been in place in one form or other since 1958. This is well known. The Hon. Allannah MacTiernan MLA, a former Minister with responsibility for the industry, expressed it directly during debate on the 2005 amendments:

“Every single analysis of the taxi industry has pointed to the fundamental insanity of government creating a restriction in a market and then allowing the value of that restriction to become private value, and then that private value forcing up prices within that industry. The taxi industry is regulated, and the whole concept of value in plates is a result of government restrictions. There would be no plate value at all if we did not have government regulation. If we think about it, and put on our economic rationalist hats, the idea that the government would create a restriction and that that restriction would lead people to have an asset that accumulates in value, driving up the price of providing a service, which has been the basis of the regulation, is just a complete nonsense”¹.

The main reason the underlying problem has not been dealt with is that politicians have lacked the courage to take action that may be opposed by the industry. This is also made clear by the former Minister’s comments on why an earlier more substantial reform proposal involving a buyback of licences did not succeed.

“In 2003, after establishing a process to consider the buyback, certain sectors of the industry were strongly in favour of it and some others were not. The Taxi Council then said that this was the most outrageous concept it had ever heard of. That was after it had made a submission to us in April 2001 asking that we do it. We think it is the right way to go, but we have no intention of doing it unless we have the support of the industry.”²

In focusing on industry interests, politicians have lost sight of the interests of consumers. Consumers are the main victims of this regulation, not its beneficiaries. A stronger focus on consumer interests is needed for reform of the taxi industry to succeed.

WA is in a fortunate position where it can relatively easily build on its past reforms, and this report commissioned by RAC offers proposals as to how this might be done.

¹ The Hon. Alannah MacTiernan MLA, Minister for Planning and Infrastructure, W. A. Hansard, Legislative Assembly, 8 November 2005, pp.13.

² Ibid. 10 November 2005, p.2.

2 Background

2.1 About the RAC

RAC represents the interests of more than 800,000 members. It is the leading advocate on mobility issues and challenges facing Western Australia. Mobility is measured by RAC under three broad themes, safety; accessibility; and sustainability.

RAC has been campaigning for more than 100 years for the rights of Western Australian road users. Its advocacy efforts are focused on increasing investment in road and public transport networks, road and vehicle safety, fairer motoring charges and support for sustainable travel options.

RAC dedicates its advocacy efforts to ensuring that the right public policies are in place to meet the mobility needs of its members.

2.2 RAC Taxi Review

RAC has commissioned Professor Allan Fels AO and Professor David Cousins AM, who jointly led the recent review of the taxi industry in Victoria, to also examine evidence relating to the performance of the taxi industry in WA. The purpose of the Review is to help inform the RAC's advocacy priorities which are focused on ensuring RAC members and the broader WA community have access to flexible, efficient and affordable transport options.

2.3 Terms of reference

This Review was to have a user-focus, which aligns with the RAC's broader advocacy role. It was to take a holistic approach and take particular account of metropolitan taxis and other licensed commercial passenger vehicles. The Review was to reflect on the reforms introduced by governments over the past decade.

A survey was also to be conducted to gauge the 'user experience' of Western Australians and their views on the performance of the taxi industry.

2.4 The Authors

Professor Allan Fels AO

Professor Allan Fels AO has had a long and distinguished career in university and public administration. He was Professor of Public Administration at Monash University prior to his appointment as Chairman of the Prices Surveillance Authority (1989-1992). He was Chairman of the Trade Practices Commission (1991-2003) the

inaugural Chairman of the Australian Competition and Consumer Commission (1995-2003); and following that, the inaugural Dean of the Australian and New Zealand School of Government (2003-2012). He was appointed Chairman of the National Mental Health Commission in 2012; chaired the Victorian Taxi Industry Inquiry (2011-2011) and has held the position of Victorian Fire Services Levy Monitor (2013-2014).

Professor David Cousins AM

Professor David Cousins AM is an economist with long standing experience in the areas of competition, regulation and consumer policy as a regulator, private consultant and academic. He was Chairman of the Prices Surveillance Authority (1992-1995); Director, KPMG Management Consulting (1995-1998); Commissioner, Australian Competition and Consumer Commission (1999-2002); and Director of Consumer Affairs Victoria (2002-2008). More recently he has had part-time appointments as Professorial Fellow and Adjunct Professor, Monash University; Commissioner with the Victorian State Services Commission, the Taxi Industry Commission and the Fire Services Levy Monitor.

2.5 Methodology of the Review

The Review has involved a close consideration of the regulatory framework and its development affecting the providers of small commercial passenger services in Perth and to a lesser extent in non-metropolitan regions of WA. It has focused on what it considers to be the core problems associated with this regulatory framework.

The user's perspective has been central to this Review and hence it was considered vital that the experience and views of users be ascertained and factored into consideration. RAC assisted in this regard by commissioning independent survey research, which is referred to in this report.

The Review team met with the Minister for Transport and Finance, the Honourable Dean C. Nalder MLA and his advisers at the start of the project to discuss the Review. The Review has been assisted by information and data provided by the Department of Transport and discussions with departmental officials.

The Review also benefited from discussions held with representatives of the ERA.

Limited discussions were held with the members and observers of the WA Taxi Industry Council, including some industry and driver observers, and with past members of the TIB. The purpose of these discussions was primarily to inform these stakeholders of the Review and to invite participation. Formal submissions were not invited, but the Review team had ready access to submissions provided to the ERA and other inquiries.

3 User perspectives on taxis

3.1 RAC Taxi Industry Research

A key input to this review is the independent survey of taxi user experience and community attitudes to taxis commissioned by the RAC. The online survey of 885 individuals (683 in the Perth metropolitan area and 202 in regional areas of WA) was conducted independently by Painted Dog Research in August 2014. All data from the survey was weighted by age, gender and location to reflect 2011 Australian Bureau of Statistics population data. A broad cross section of the population was included in the survey; around two-thirds of respondents were RAC members.

Key findings of the survey were:

- Nearly everyone catches a taxi at least once a year, and almost 1 in 3 is using a taxi once a month. There is only a small proportion (5%) of the population who use a taxi at least once a week.
- Taxi usage is higher among Males, Gen Y, those with a higher income and those who live close to the CBD.
- Those who catch taxis are most likely to do so on a weekend evening so they can get to a bar, restaurant or social outing.
- Catching a taxi to or from the airport is the most common reason during the weekdays.
- The traditional method of phoning dispatch remains the most common way for getting a taxi across all segments, although younger generations are also likely to wait at a taxi stand or hail a taxi on the street.
- Surprisingly, take up of mobile ‘apps.’ and online bookings have been relatively low.
- Views towards the taxi industry are mostly negative –with the most common criticisms relating to high costs, unreliable service and wait times. 84% of survey respondents held at least one negative association with the taxi industry, while only 34% had a positive association with the industry.
- While regional and older generations are more likely to rate the taxi industry’s performance as ‘excellent’, the average results for these segments are still not high.
- The negative views towards the taxi industry come as no surprise when nearly 6 out of 10 have experienced a problem in the last 12 months – in some instances causing stress and costing the customer time.
- Despite experiencing issues with taxi services, most do not file a complaint or report the incident – and the majority say it will have no impact on their future usage.
- Overall satisfaction with the taxi industry is not high and there is clear room for improvement.

- Across all subgroups, there is consistency in attitudes and perceptions although it is clear that females are more concerned about their safety at night, and younger generations and those in Perth are more vocal about the cost of usage.
- It is clear that some changes and improvements are required in the taxi industry to encourage greater usage and provide far more positive experiences.
- The priority areas identified are:
 1. cost;
 2. reliable and timely service;
 3. driver behaviour; and
 4. perceived lack of safety.
- The survey found that usage of private charter vehicles is low, but users are highly satisfied. Some customers have taken up this service because of poor past experiences using taxis.

3.2 RAC Older Driver Survey

Some of the findings of the RAC's Taxi Industry Research were echoed also in an earlier survey conducted in March 2014 by the RAC relating to older drivers. This survey, which had 1224 respondents, asked some questions specifically about taxi usage as well as more general questions about driving experience. The survey highlighted that older people don't use taxis very often – 61% of those surveyed in the metropolitan area (including a small proportion under 65 years in age) never use taxis; this figure was even higher in regional areas at 74%. When taxis were used, they were used sparingly. It was only the very aged (90+) that used them more frequently and then only 10% of that category used them at least once a week.

However, a significant proportion of the respondents, who were able to give a rating, rated taxis in their local area as a good transport option (56% and 54% in the metropolitan and regional areas respectively) and a much smaller proportion (9% and 6% in the metropolitan and regional areas respectively) rated taxis as an excellent transport option. More than half of those with a driver's licence (53% in both metropolitan and regional areas) would, at least, probably consider this option if they did not have a car.

The overwhelming issue older people also had with taxis was that they were too expensive (43%). Unreliability and lack of timeliness was also an issue mentioned by 24% of respondents; availability was mentioned by 12% of respondents; and 10% and 9% respectively of respondents mentioned drivers' lack of knowledge and poor English.

3.3 Department of Transport Taxi User Surveys

The Department of Transport commissions an annual survey of the experience and satisfaction of taxi users with taxis. The methodology used has changed marginally over time, but it is considered adequate to indicate long term trends. The most recent survey in 2013³ was based on 417 completed interviews – 405 of these respondents had used a taxi service in the past three months and 12 respondents had tried to but had failed to do so.

The survey found that the average number of trips per customer was 5.6 in the last three months. The longer term trend was toward less frequent use of taxis by customers. There has been a slight tendency toward more single passenger trips and for customers to be less likely to use taxis for both legs of a journey, with the return trip only at night becoming more common. The mean taxi fare estimated by respondents for 2013 was \$39.51. Increases in the last three years had been by 10%, 12% and 5%. The survey estimated that 58% of all journeys had been booked through a Taxi Dispatch Service (TDS); 12% were obtained at a rank; 11% were obtained at the airport; 11% were hailed; and 8% were by other or unknown means.

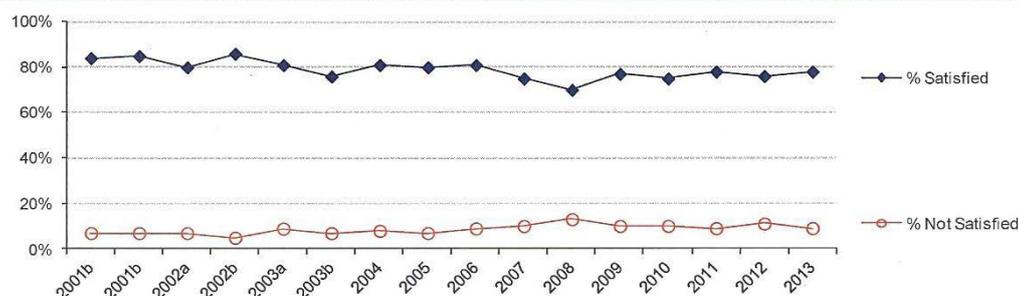
The survey found overall satisfaction with taxis to be relatively high with 78% of respondents expressing satisfaction and 9% dissatisfaction with their most recent trip. Table 1 below shows the survey results also for earlier years. Satisfaction was above 80% prior to 2007, but had fallen to a low of 70% in 2008. It has remained around the current level for the past 5 years⁴.

³ David Bruce, Taxi User Survey 2013 Statistics, December 2013

⁴ Whilst the data are not comparable, it is interesting to note that overall customer satisfaction with taxis in Melbourne reached a six year high in 2012-13 of just below 70%, up around 6% from when the Taxi Industry Inquiry was announced in May 2011. Quarterly surveys of customer satisfaction are undertaken, but the results are not being made public by the Government or regulator. Victorian Taxi Association, Taxi customer satisfaction at six year high, Media release, 29 January 2013.

Table 1 Perth taxi user general satisfaction with latest trip 2004-2013

Rating	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Very satisfied	50%	49%	43%	42%	37%	47%	43%	45%	43%	44%
Quite satisfied	31%	31%	38%	33%	33%	30%	32%	33%	33%	34%
Neither sat/Dissat.	11%	13%	10%	15%	17%	13%	15%	13%	13%	13%
Not satisfied	4%	4%	4%	4%	8%	6%	7%	5%	7%	6%
Not at all satisfied	4%	3%	5%	6%	5%	4%	3%	4%	4%	3%
% Satisfied	81%	80%	81%	75%	70%	77%	75%	78%	76%	78%
% Not Satisfied	8%	7%	9%	10%	13%	10%	10%	9%	11%	9%



[Base = all respondents; N~200 in each wave 2001a to 2008; N~400 in each wave 2009 onwards]

Source: WA Department of Transport (David Bruce), *Taxi User Survey 2013 Statistics*, p.30

The decline in overall satisfaction reported in 2007 is reflected in many of the ratings given by users to specific aspects of their taxi experiences, as shown in Table 2 below. Again many of the ratings for these specific attributes have not changed greatly over the past five years. However, the exceptions to this are improvements in satisfaction with the timeliness of TDS jobs and availability for rank and hail jobs, but increased dissatisfaction with the cost of the trip and value for money.

The ratings given to the specific aspects of performance were compared with target standards based on the proportion of customers giving a rating of '4 or 5 out of 5'. The colours indicate that only the driver politeness indicator avoided being in the not acceptable range and only satisfaction with availability increased significantly from 2012. None reached the high standard. These results suggest there is plenty of room for improvements to occur.

Table 2 Perth taxi user specific satisfaction, 2004-2013

Aspect	2004 (%)	2005 (%)	2006 (%)	2007 (%)	2008 (%)	2009 (%)	2010 (%)	2011 (%)	2012 (%)	2013 (%)	High Standard (%)	Not Acceptable (%)
Condition of car	84	83	84	77	73	75	79	75	74%	74%	> 90	< 80
Driver appearance / hygiene	75	79	78	75	70	76	76	75	74%	75%	> 90	< 80
Driver friendliness	78	73	70	69	69	68	66	66	66%	66%	> 85	< 75
Driver's communication	71	72	72	67	69	65	68	65	66%	67%	> 90	< 80
Driving skills	78	82	74	80	77	76	80	77	77%	76%	> 90	< 80
Knowledge of routes	72	74	69	70	68	74	66	66	65%	68%	> 90	< 80
Making an extra effort	56	57	44	50	44	45	45	49	53%	48%	> 85	< 75
Driver behaviour / attitude	80	82	73	72	75	78	74	76	75%	71%	> 85	< 75
Driver take short/cheap route	78	79	67	72	67	69	69	71	71%	70%	> 90	< 80
Driver politeness	75	83	80	78	75	79	74	76	79%	75%	> 85	< 75
Ability of driver to use equipment	81	82	74	70	67	70	68	71	74%	74%	> 90	< 80
Driver willingness to assist	71	75	59	63	58	61	56	61	64%	61%	> 85	< 75
Timeliness (TDS jobs only)	81	78	78	71	59↓	68↑	75↑	73	72%	78%	*	*
Availability (Rank / Hail jobs only)	67	66	62	56	55	75↑	71	68	65%	75%↑	*	*
The cost of the trip	53	56	44	45	39	50	49	51	45%	43%	> 50	< 50
Value for money	53	54	43	43	40	49	50	50	46%	43%	> 50	< 50

[Base = all respondents; N=200 in each wave 2001a to 2008; N=400 in each wave 2009 onwards]

NOTE: %s are the proportion of users giving a rating of 4 or 5 out of 5.

* No standard is calculated, but this attribute is monitored.

Significant changes to previous year: ↑ Significantly higher ↓ Significantly lower

3.4 Users of Wheelchair Accessible Taxis

In August 2012 the TIB conducted a Forum involving persons interested in MPT operation. The Forum included people with disabilities and their families, representatives from disability organisations, drivers, TDS representatives and government officials. The Forum considered Perth's wheelchair accessible taxi service and what it would look like when it was as best it could be and how to get there; and what a taxi subsidy scheme should look like in the twenty first century. Based on these considerations, priorities for change were identified by the Forum in the following order of importance:

- 1 Driver training/doing what asked
- 2 Guaranteed service 24/7
- 3 Electronic Taxi User Subsidy Scheme (TUSS) eligibility
- 4 One booking service
- 5 People with disability involved in consultation and industry
- 6 Greater rewards for drivers for good service for people with disability
- 7 Universal access
- 8 Same benchmarks for service for people with disability as for rest of taxi service
- 9 More accessible taxis
- 10 Review restraints
- 11 Review rules re scooters⁵.

⁵ Taxi Industry Board, A Conversation about Perth's Wheelchair Accessible Taxi Service, A report on a Forum held in August 2012.

The TIB followed up its Forum by sending a questionnaire to other people who may not have been willing or able to attend. This elicited some 700 replies. The TIB indicated that it was preparing a report on the survey responses, but it seems that the appointments to the Board expired before this report could be completed. It would be sensible to allow this work to be completed given its significance and the support it received from the sector.

3.5 Overall perspective on user views

Whilst general satisfaction with taxis in WA appears to be higher than at least some other Australian jurisdictions, it is clear that consumers have some significant negative perceptions of the industry's performance. The high cost and unreliability of services are particular concerns. Both these concerns can be linked directly to the licensing system which causes taxi fares to be higher than they otherwise would be, reduces competitive pressures taxis face in pre-booked services and restricts the availability of taxis.

4 Past inquiries relevant to the taxi industry in Perth and WA

4.1 BSD Consultants, Review of the Western Australian Taxi Industry, Final Report, August 1999.

The BSD report was prepared for the DoT by BSD Consultants in association with others including Economics Consulting Services, Estill and Associates and Dr. Jeremy Toner, a UK expert on taxi economics. It was an NCP review of the relevant legislation and also a strategic review of key issues in the industry. It was a comprehensive report based on extensive public consultation, surveys and research. Issues and options papers were prepared, submissions sought and eight public meetings were held. The report covered both the Perth and non-metropolitan regions of WA.

The report identified a number of key issues fundamentally influencing the structure and operations of the taxi industry in Perth. These were:

- Taxi plate (licence) number limitations;
- Small charter vehicles;
- Fare restrictions;
- Services for passengers with disabilities;
- Safety and standards;
- Taxi dispatch services; and
- Industry management and funding.

The report noted “there is no doubt that the limitation on plate numbers is the most important regulatory issue in the taxi industry”⁶. Licence number restrictions were seen as inevitably leading to a less than optimal number of taxis in the industry. This resulted in licences acquiring significant market value. These restrictions also adversely affected customer service, reduced overall demand for services and thus driver incomes; and were the source of much of the other restrictive economic regulation affecting the industry’s operation, including hire car restrictions, lease cost controls, time and area restrictions imposed on certain licences, licence ownership restrictions and requirements on drivers relating to such matters as fare refusals.

Restrictive licensing is a barrier to entry to new firms joining the taxi industry. Some commentators and many industry representatives consider that the taxi industry performs better when there are barriers to entry. Otherwise the industry would be

⁶ BSD Consultants, Review of the Western Australian Taxi Industry, Final report, Volume 1, August 1999, p. 35.

prone to excessive entry resulting in too many taxis for the available work and encouraging drivers to take short cuts on the quality of their service . There may be a counter cyclical effect here as well in that, in more difficult economic circumstances when industry demand is lower and there are fewer alternative job opportunities, more people may be attracted to enter the taxi industry⁷.

BSD accepted the argument that some barrier into the industry was beneficial, but considered that restricting licence numbers was not the way to achieve this. It raised the possibility of limiting entry by setting a high annual licence price, but considered that this was not an efficient way to proceed as it maintained a high cost industry structure. It considered a better approach would be to substantially increase the training requirements imposed on new entrants so that necessary competencies were attained before commencing driving.

BSD proposed that the number restrictions on licences be phased out over a defined transition period. A buyback scheme of all existing licences was proposed with payments being at current market values. An annual licence lease would replace the perpetual licences and lease fees would be set so as to fund the buyback. The lease fee proposed initially was \$300/week which was below the existing fee of \$380/week charged by licence holders. Once the buyback was completed, it was suggested the licence lease fee be set just to cover the administrative costs of the licensing scheme. A cap of 20% per annum was proposed to apply to new licences and licences would be issued on a first come first served basis to applicants who had completed the training competency requirements.

In relation to Small Commercial Vehicles (SCVs), BSD noted “(t)he current regulations allow for a segmentation of the market between taxis and SCVs but a lack of enforcement has lead (sic) to SCVs encroaching on the taxi market segment. Given these disparate cost structures, this market segmentation is supported, as are differential pricing arrangements and the 30% premium in SCV fares. In addition attention should be given to the adequate enforcement of SCV regulations.”⁸ Under its recommended taxi training-based licensing regime, cost structures for taxis and SCVs would be similar and BSD considered there should then be greater alignment of the regulations relating to both, in particular relating to training, safety and standards.

BSD saw little economic justification for the setting of maximum fares, particularly in the booking segment of the taxi industry. However, due to concerns expressed by both

⁷ In many taxi markets, restrictions on licence numbers were introduced during the Depression when unemployment was high and entry to the taxi industry was easy. An economic explanation for the industry being prone to excess capacity is given in Catherine Liston-Heyes and Anthony Heyes, “Regulation of the Taxi Industry: Some Economic Background,” OECD, (De)Regulation of the Taxi Industry, 2007, pp. 91-113. The authors conclude, however, that “There are only weak arguments in favour of regulating entry into the market. Comparatively low fixed costs to operation suggest that the risk of excessive entry is minimal. In many settings, there is evidence of inadequate supply, such that additional entry should be encouraged, not “taxed”. Ibid., p. 105.

⁸ Ibid, p. 51.

industry and the community in relation to certainty in fares, it recommended that maximum fares be retained. BSD supported continuation of the management of maxi taxis for disabled passengers under one taxi dispatch service, but considered tendering criteria should be more performance based. It made some recommendations to further enhance passenger and driver safety. In relation to taxi dispatch services, BSD recommended the development and introduction of performance standards as well as the adoption of incentive-based fees for users of these services. Significantly, it also recommended that membership of a TDS become mandatory. It was suggested that the dispatch service could exercise some quality control over operators and provide some check against excessive entry where there were no restrictions on the number of new entrants. BDS favoured a more performance or outcome based approach to the industry's regulation and funding of industry regulation through licence fees.

BSD recommended a different approach to licensing apply in relation to smaller country markets. This took account of factors, such as differences in industry structure, the higher proportion of owner drivers and transitory ordinary drivers, the lighter-handed approach to regulation in operation and the greater reliance on industry self-regulation. BSD still found that “the most important structural deficiency is the high licence values due to substantial scarcity values included in licence prices. This is despite licences being issued on an annual basis in regional areas.”⁹ Licences were issued on the basis of demand perceived by the regulator, but in practice had not been made adequately available thus giving rise to service concerns. It was recommended that restrictive licensing continue but that supply management be more formalised and transparent. A licence buyback scheme was also proposed following which licences would be issued on a competitive tender basis and would no longer be transferrable. Maximum fare controls on taxis were also supported with some minor changes. The restrictions imposed on Private Taxis (PTs) to prevent them competing closely with ordinary taxis were supported by BSD “given the high licence values and associated cost structures of taxis.”¹⁰

⁹ *Ibid.*, p. 121.

¹⁰ *Ibid.*, p. 125.

4.1.1 Government response to the BSD report

In the years leading up to the NCP review both major parties had rejected calls to remove quantitative restrictions on licences. The Labor Government led by Dr. Carmen Lawrence had initiated a review of taxi legislation in 1993, but rejected moves for deregulation that were not supported by the industry¹¹. The new government introduced the Taxi Act 1994 to replace the Taxi-car Control Act 1985. The underlying philosophy was to rely more on industry self-regulation to deal with problems of failing to meet demand, not to effect fundamental change to licensing arrangements¹².

The attitude of the Court/Cowan Coalition Government to taxi regulatory reform was again made clear not long after the agreements to adopt NCP were signed by the W.A. Government. The Transport Minister commented:

“The Federal Government is keen to deregulate the taxi industry due to what it sees as a lack of competitive spirit within the industry. .. In other words, the industry needed to provide the benefits of competition through improved customer service while retaining entry regulation”.

Further, he said he was against deregulation as:

“experience had shown that in other parts of the world it had led to fares rising with no corresponding service improvements, or fares remaining static, but with a fall in service standards. There is also the issue of the massive investment in the industry by taxi owners that needs to be protected. It is crucial therefore that owners and drivers demonstrate a greater commitment to the customer to stave off any threat of deregulation.”¹³

It was, perhaps, not too surprising then that the Government did not accept the major recommendations of the BSD report relating to a buy-back of licences and removal of the restrictive cap on licence numbers, despite the comprehensiveness of the review, its independence and the expertise of the people involved. The rationale given by the

¹¹Transport Minister Pam Beggs said “the Government has no intention of deregulating the taxi industry, altering the arrangements by which fares are set or increasing the number of taxis without the agreement of the Industry.” Media Statement, Phone-in on taxi industry a resounding success, 13 January 1993.

¹² Transport Minister Eric Charlton commented that “regulation would be maintained in the interests of the industry and public. Central among the changes would be the dismantling of the Taxi Control Board to be replaced by a broadly-based Taxi Industry Board. The Government would retain control over the issuing of new licences and setting fares. The Taxi Industry Board would be responsible for setting and maintaining service and vehicle standards, encouraging innovation, driver accreditation, driver discipline and debt collection. ... The changes follow lengthy consultation with the industry following the review of the Taxi Control Act and while I have determined it is not appropriate to deregulate Perth’s taxi industry, I believe it is necessary to separate industry planning and regulation. The main criticism of the industry was that the current regulatory structure prevented it from focussing on meeting the demands of a changing market. I think that given the freedom to be innovative, the new board will end the present decline in taxi usage.” Media Statement, Taxi-car Control Act to be replaced, 12 November 1993..

¹³ Government of Western Australia, Eric Charlton Transport Minister, Media Statement, Metro taxi fares to rise from July 17, 24 June 1995.

Government for its failure to act was that there was no clear industry view in favour of doing so¹⁴. In its response to the NCC on progress in implementing reforms, the Government also said that “it recognises there is a public interest case for a buy-back of taxi plates. Although it is recognised that there are limitations with buy-back, it provides a feasible means of implementing more substantial reform to the industry. However, Western Australia will not proceed with buy-back unless it is convinced that the benefits exceed the costs and risks of funding it”¹⁵.

The WA Government was assisted in its considerations of these matters by a Steering Committee, which had oversight of the BSD report and also undertook a survey of market opinion. The Committee advised the Government to issue an additional 50 wheelchair accessible taxi licences and 100 new peak period licences by tender and that the effects of the additional licences and other reforms on industry performance be monitored. The Government subsequently put out to tender a smaller number of licences – 25 wheelchair accessible taxi licences and 100 peak period only licences. Only 35 of the latter were taken up, probably because of the tight restrictions placed on the use of these licences.

The NCC in its 2002 assessment of WA’s implementation of the NCP reforms considered that the State had not yet complied with the legislative review principles in so far as they related to the Taxi Act. Other jurisdictions were also failing to implement reforms that the NCC considered appropriate and to help break the impasse that had developed the Council wrote to all jurisdictions in 2002 to advise that it accepted that a more gradual transition to open competition could be consistent with NCP requirements if it conformed to the following conditions:

- There should be regular (at least annual) releases of new licences, with sufficient new licences being released to improve the relative supply of taxis in the short and medium term, given historical demand trends.
- There should be a commitment to independent and regular monitoring and review of reform outcomes (at least every two to three years) and to additional action if demand/supply imbalance is not improving.
- There should be immediate reform of the other chauffeured passenger transport providers (such as hire cars and minibuses) to increase competition.
- There must be strong commitment that the program of staged licence increases will proceed.

4.2 Report on Review of the Taxi Industry Regulatory Structure in the Perth Metropolitan Area, June 2003

The BSD report was prepared when the Court/Cowen, Liberal National Coalition was still in power. A further, much less comprehensive, report was prepared for the new

¹⁴ Western Australia, Hansard Legislative Assembly, Response by Mr. Hendy Cowan to questions asked by Ms Alannah MacTiernan, 16 November 2000, pp. 3343.

¹⁵ Western Australia, Implementing National Competition Policy in Western Australia, Report to the National Competition Council, May 2002, p. 25.

Labor Government Minister, the Hon. Alannah MacTiernan MLA, by a parliamentary colleague, The Hon. Graham Giffard MLC. This review was to address the Government's concern that "costs have escalated, particularly with respect to the taxi plate and licence fees, while demand has diminished due to partial de-regulation. As a result the returns to drivers are often below acceptable standards, rendering taxi driving as a job of last resort."¹⁶ The reference to diminished demand due to partial de-regulation seemed to be a reference to the growth of SCVs competing with taxis for pre-booked work.

Its purpose then was to make recommendations to:

- provide fair returns to drivers and owner drivers while offering the public an efficient, economical and safe service; and
- address the requirements of the NCC.

The Review held an industry forum and conducted an industry survey as well as seeking survey input from a number of consumer bodies. As the NCC noted beforehand, "the Government's proposal for an industry forum may not be the best way to evaluate the community benefit from further relaxation of supply restrictions. There is a considerable risk that such a mechanism would see the overall community interest subsumed by the interests of the industry."¹⁷

Seventy per cent of industry respondents to the survey were opposed to de-regulation and wanted to retain a cap on licence numbers. Just over one-half (52%) of respondents were also opposed to any buyback of taxi licences. Licence or plate owners were strongly opposed to a buyback (68%), licence lease drivers supported a buyback (63%) and shift lease drivers marginally supported a buyback (51%). Under a buyback, owners wanted to receive more than market value for their licences while drivers thought they should get less than market value. Drivers expressed strong support for a reduction in lease rates and consumers wanted more taxis at peak periods and more MPTs and no fare increases.

Accordingly, in the tradition of trying to please everyone or not to displease anyone, the Review recommended that licence numbers in the metropolitan area continue to be capped; that there be no compulsory buyback of taxi plates, but that a voluntary buyback scheme be introduced (using a private funding arrangement); that non-transferrable licences be made available by the Government for a fee, to be indexed over time, that is significantly less than the lease rates currently paid by drivers; commensurately lower shift lease rates; and maintenance of the existing taxi fares for a further year and thereafter annual escalation. The Review supported the immediate release of an additional 50 licences, just over half of these being conventional

¹⁶ The Hon. Graham Giffard MLC, Report on Review of the Taxi Industry Regulatory Structure in the Perth Metropolitan Area, June 2003, 9. 9.

¹⁷ National Competition Council, Assessment of governments' progress in implementing the National Competition Policy and related reforms, Volume one: Assessment, August 2002, p.5.34.

licences; and further annual increases in licences based on industry viability and performance indicators.

The Government adopted virtually all of the Giffard recommendations and Parliament passed amendments to the Taxi Act in December 2003 to allow for the leasing of licences. The Government leased 48 new licences in April 2004; 32 of these licences were conventional licences, the first new full-time licences issued since 1990. The licences leased were only available to existing drivers in the industry and were priced significantly below the market lease price for existing licences (\$250/week compared to \$345/week). The Minister suggested that “Leasing from the State Government will give drivers a new level of control over the financial operation of their business and a new level of involvement in the taxi industry”¹⁸. An additional 28 licences were tendered later in the year and the Government indicated that an additional 40 new licences would be leased each year from 2005 to 2008.

Despite the changes made by the Government to licensing arrangements for taxis, significant restriction on taxi numbers remained in place. Further, although there were no restrictions on the number of SCVs, restrictions on their pricing maintained segregation from taxis. However, the NCC considered that the Government had just done enough to meet the requirements of the competition Principles Agreement (CPA).

“The Council’s relatively low compliance benchmark for taxi reform was established by the positive assessment afforded Victoria in the 2003 NCP assessment. The assessment recognised substantial forward progress in an area in which there was little, if any, will for reform across Australia. While the Victorian regime involves a longer term commitment to de-restricting entry to the industry, the Western Australian program is of a similar ilk. For procedural fairness, the relatively low compliance benchmark established for Victoria suggests that Western Australia’s program is sufficient for it to be assessed as (marginally) meeting its CPA obligations. Nevertheless, the achievement of this lower benchmark should be viewed as an interim step toward fully meeting the public interest objectives established by NCP reviews”¹⁹.

4.3 Economic Regulation Authority of WA, Inquiry into Microeconomic Reform in Western Australia, Final Report, 30 June 2014

The Economic Regulation Authority (ERA) was in August 2013 requested by the State Treasurer to conduct an inquiry into microeconomic reform. The inquiry’s aim was “to develop the most advantageous package of microeconomic reform measures that the Western Australian Government could implement to improve the efficiency

¹⁸ The Hon. Alannah MacTiernan MLA, Minister for Planning and Infrastructure, Media Statement, New taxi plates a benefit to drivers and the public, 1 April 2004.

¹⁹ National Competition Commission, 2004 Assessment, p. 14.17.

and performance of the Western Australian economy”²⁰. The Authority subsequently made 39 recommendations for reform across 17 different areas; 10 of its recommendations related specifically to the taxi industry. These recommendations are listed below.

Economic Regulation Authority Recommendations relating to the taxi industry

- Establish a process to effect the removal of all quantity restrictions on the taxi industry in Western Australia in a single stage.
- Reduce taxi lease fees such that they reflect the cost of issuing the licence.
- Remove the restrictions on small charter vehicles that prevent them from competing directly with the taxi industry including the regulations that:
 - a. establish different vehicles standards for taxis and small charter vehicles;
 - b. require small charter vehicles to charge a minimum fare price; and
 - c. require small charter vehicle services to be pre-booked.
- Equalise safety requirements for taxis and small charter vehicles, including requiring small charter vehicles to be fitted with a security camera and a global positioning device.
- Do not compensate owners of taxi licence plates for the loss of any fall in taxi plate values.
- Require all taxis and small charter vehicles to display their fare schedule such that it may be easily observed by passengers from outside the vehicle and within the vehicle.
- Require all taxi and small charter vehicle companies to lodge their maximum fare schedules with the Department of Transport 24 hours prior to implementation.
- Equalise the driver training requirements between taxis and small charter vehicles.
- Remove the mandatory dispatch network affiliation requirements for taxi vehicles.
- Make the Department of Transport guidelines on fatigue management compulsory.

The ERA considered the taxi industry to be over-regulated, especially in relation to restrictions on the number of licensed vehicles and, related to this restriction, maximum fare restrictions. “Restrictions on the quantity of taxis have resulted in taxi services in Western Australia being: over-priced by around 16 per cent; and under-supplied and unreliable, with booked taxis in Perth being 15 minutes late or longer on 115,000 occasions in 2013.”²¹ The net welfare cost to the community of these restrictions was estimated to be between \$13.6 m and \$38.5 m per year with

²⁰ Economic Regulation Authority, Inquiry into Microeconomic Reform in Western Australia, Terms of Reference.

²¹ Economic Regulation Authority, Inquiry into Microeconomic Reform in Western Australia, Final Report, p.17.

consumers losing around \$70 m per annum and private plate owners and holders of government leased plates gaining.

The ERA also noted the adverse impact of quantity and other restrictions on innovation and new entry to the industry. “The full potential benefits of smart phone technology will only be realised if the Government removes quantity restrictions on the taxi industry and removes the barriers that prevent small charter vehicles from competing with taxis (including minimum fares)”²².

The Authority favoured complete removal of the quantity restrictions in a single stage so as to provide the greatest and earliest benefits to users and reduce opportunities for interest groups to derail the process.

The ERA recommended that the Government not pay compensation to licence holders for the loss of value of licences which would follow removal of quantity restrictions. This recommendation was based on a view that licence holders had been able to reap windfall gains in the past; that investors should have already taken account of the risk of Government removing the restrictions and that new technology was likely to erode the value of licences irrespective of whether restrictions were maintained. Despite this view, elsewhere in its report the ERA recognised that different groups and individuals within groups may be affected differently by proposed reforms. “For example, some holders of production licences (such as taxi plates or potato licences) may have received those licences for free, while others may have purchased them for considerable cost. Licence holders may have held these licences for long periods of time and gained more than their initial investment in the form of high prices, or they may have recently purchased the asset and so have not had the chance to recoup their investment”²³.

The ERA also considered that restrictions preventing small commercial charter vehicles from competing with taxis should also be removed. It recognised if small commercial charter vehicles were to be allowed to pick up rank and hail passengers, that some additional regulations may need to apply to them, including external signage, in-vehicle cameras and GPS. It is not clear, however, given the Authority’s recommendations, what the rationale would be for continuing to have separate taxi and small charter vehicle licences.

4.4 Victorian Taxi Industry Inquiry

A major independent inquiry into the operation of the taxi industry in Victoria was conducted in 2011-12²⁴. The Inquiry made significant recommendations for change, and legislative changes have since been passed by the Parliament to implement many

²² Ibid.

²³ Ibid., P. 23.

²⁴ Victoria, Taxi Industry Inquiry, Customers First: Service, Safety, Choice, Draft Report May 2012; Final Report December 2012.

of the reforms²⁵. Many of the issues considered by the inquiry are relevant to the industry in Perth and WA. However, there are differences in industry structure and regulation affecting industry performance in both states and therefore the relevance of the Victorian Inquiry's findings and recommendations for WA needs to be carefully considered.

The Victorian Inquiry was prompted especially by concerns about poor and declining service performance relating to things like taxi availability especially at peak demand times, the reliability of booking services, driver knowledge, skills, conduct and presentation, and safety for passengers and drivers. Passengers with disabilities were particularly disadvantaged by poor service. The Premier indicated when announcing the Inquiry that he expected it to address 'longstanding and deep rooted issues' and to recommend 'sweeping reforms' to the industry that would improve low levels of public confidence, provide better security for drivers and safety for customers, and ensure that drivers are properly trained and knowledgeable. The long standing and deep rooted issues particularly concerned the operation of the restricted licensing system, which at the start of the Inquiry had resulted in perpetual taxi licences acquiring a market value of around \$500,000 and a lease value of around \$30,000 per annum.

The Inquiry's Final Report included 139 recommendations to Government. The reform package recommended by the inquiry was built around three core aims.

1 Increasing and improving the supply of taxis and hire cars

- Removing the restriction on taxi licence numbers and making all new licences available at any time to approved applicants at a fixed annual price
- Making all new taxi licences non-assignable
- Lowering the hire car licence price in Melbourne and removing red tape from the hire car market to allow more diverse pre-booked services
- Lifting restrictions on the type of vehicles that can be used as taxis and hire cars, and introducing a subsidy to encourage the use of purpose-built taxi vehicles
- Removing the requirement for uniform yellow livery outside metropolitan Melbourne and allowing advertising on taxis
- Removing the requirement for taxi operators to affiliate with a network and making it easier for new networks to form and enter the market.

²⁵ Victoria, Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013; Transport Legislation Amendment (Further Taxi Reform and other Matters) Act 2014.

2 Restoring consumer trust in the taxi industry

- Measures to improve the quality of taxi drivers, including an independent Knowledge exam for drivers working in Melbourne and large regional cities, and a new mandatory Driver Agreement to improve driver pay and conditions
- Enhanced governance arrangements, information and powers for the regulator
- Extending the Taxi Rank Safety Program and developing a strategy for reducing the incidence of anti-social and criminal behaviour by passengers
- Establishing a Public Register of industry participants
- Improving services for people with a disability, including a new centralised booking system and an expansion of the Multi -Purpose Taxi Program (MPTP)
- Moving to a less ‘hands on’ regulatory approach that will encourage and facilitate competition, allow networks and operators more flexibility in how they meet regulatory standards and requirements, and give the industry scope to resolve problems as they emerge
- Making networks more responsible for customer bookings by applying consumer law obligations to them.

3 Boosting demand and competition in taxi and hire car services

- Removing unnecessary regulation that hinders the development of new services, such as taxi shuttles, share rides with flat fees and fixed route services
- Better integration of taxis and hire cars with public and community transport
- Increasing taxi access to bus lanes along freeways and major roads
- A two-stage process to move from fare regulation to fare competition in Melbourne and the replacement of fare regulation with fare notification and publication in country areas
- A major fare restructure, with changes designed to reduce short trip refusals, remove the incentive for Wheelchair Accessible Taxis to queue at Melbourne Airport (rather than provide services to wheelchair passengers) and support the industry in offering more flexible and innovative services
- Increasing revenue opportunities for operators by allowing them to advertise on or inside their vehicle
- Removing the requirement for uniform yellow livery in non-Metropolitan zones.

The Government agreed with the Inquiry’s core finding that the industry must embrace competition and move towards effective self-regulation to improve the quality of taxi and hire car services for consumers. In the absence of substantive reform, the future for the industry was likely to be one of slow stagnation and decline. Virtually all the Inquiry’s recommendations were agreed to by the Government either

in full or in principle. The Government considered some recommendations to be fundamental to sustained reform and immediately moved for their introduction into legislation. These foundational recommendations were intended to:

- Remove the regulatory restriction on licence numbers and issue new licences to approved applicants at annual fees
- Set taxi licence fees at levels that will promote a measured increase in taxi and hire car numbers, allow an increase in the taxi driver's share of fare revenue and provide some support for the equity and income positions of existing licence holders
- Cap the level of service fees for the electronic payment of fares
- Remove restrictions and red tape on pre-booked hire car services to enable a more diverse range of services to be provided
- Introduce 'The Knowledge', an enhanced independent and comprehensive exam for new taxi drivers
- Establish the core objectives, functions and powers of the Taxi Services Commission, including new data collection powers.

The Inquiry had proposed that the new annual leased taxi licences be available at a fixed price of \$20,000 and that fare restraint be maintained given that the high elasticity of demand meant that overall revenue would not be increased by raising fares. It was anticipated that the lease price on existing perpetual licences would be forced down to around the level of the new annual licence fee. This would be to the benefit of operators if nothing else changed. However, the Inquiry recommendations were also designed to increase driver remuneration significantly by increasing the share of the meter paid to the driver and introducing a Driver Agreement which aimed to regulate other aspects of the driver operator relationship. Overall then, the impact on operator profitability was expected to be neutral. In these circumstances the Inquiry did not consider that there would be a flood of new entrants to the industry, as was predicted by some industry representative bodies.

The Inquiry recognised the difficulty of moving to a full open market, (where there were no restrictions on entry apart from those required to ensure adherence to minimum standards of safety and service), in the short term without some assistance being given to licence holders to offset the impact of the loss of the value of their licences. The setting of a high annual licence price of \$20,000 meant that the value of perpetual licences might halve to around \$250,000, but it would not be close to zero as it would be in a full open market. The Inquiry did not recommend that compensation be paid to licence holders for the loss of value of their licences, but it did suggest that it may be appropriate to provide some assistance in particular cases of hardship, for example where a person had purchased a licence recently at a high market price.

The Victorian Government did not implement the Inquiry's recommendations in some critical ways which will delay the achievement of necessary reform. In particular, it set the annual licence lease price at a higher figure of \$22,000 and, critically, determined that this would be escalated each year by the Consumer Price Index less 0.5%. The Essential Services Commission (ESC) also approved a substantial fare increase, at least some of which is likely to flow through to licence holders. Licence values have since been maintained at around \$280,000 and will increase further over time in nominal terms.

Some of the Victorian reforms to taxi licensing are similar to those already in place in Western Australia. New licences are able to be leased for a set price. However, there are also some substantial differences between the two jurisdictions. First, the Victorian model has removed the artificial restriction on the number of licences that can be issued each year. Anyone who is qualified can obtain a licence in Victoria if they are prepared to pay the set price. In this way the market will determine the demand for licences. In Western Australia, the Government still determines the number of licences to be made available. Secondly, there are no restrictions on who may lease a licence in Victoria or how many licences they may lease. In Western Australia, clear preference is given to existing drivers in leasing licences, and applicants are limited to just one licence. Third, it was proposed and accepted by the Victorian Government that annual leasing of licences will apply to regional and country markets in the State. In Western Australia, the approach to issuing new licences in the non-metropolitan regions differs from that applied in the Perth metropolitan region.

The Victorian Inquiry made a number of recommendations which were aimed at removing unnecessary restraints on hire car operators and therefore potentially enhancing competition between hire cars and taxis. Previously perpetual hire car licences were available in the metropolitan zone on an 'as of right' basis at a fixed price. In non-metropolitan areas a lower price was set, but a public interest test was also applied with the effect of restricting supply. The Inquiry recommended that the price-based approach to issuing licences be maintained without any public interest test, but that the metropolitan price be reduced by one-third to \$40,000, and the \$20,000 non-metropolitan price be retained. These recommendations were accepted by the Government, but a new consumer interest test was introduced to apply to country licence applications in place of the public interest test. The same consumer interest test has also been introduced to apply to country taxi licences.

A significant change recommended by the Inquiry and accepted by the Government was the removal of the requirement for hire cars to be of luxury vehicle standard. The Inquiry also recommended rationalisation of hire car licence categories under the broader title Pre-Booked Only (PBO) licence name, and removal of the requirement for wedding car and tour operators to be licensed.

4.5 Australia, Competition Policy Review, Draft Report, September 2014

The Competition Policy Review, chaired by Ian Harper, recently published a draft report. The final report is not due until March 2015. The Review commented specifically on taxis. It noted that “the taxi industry in most States and Territories remains heavily regulated despite both being a priority reform area identified under the NCP regulation review program and most reviews recommending substantial reform”²⁶. Further, “while laws that regulate safety and minimum service levels are commonplace in the Australian economy, the taxi industry is virtually unique among customer service industries in having absolute limits on the number of service providers”²⁷. The Review Panel also expressed concern that regulation in this industry may stifle new disruptive technology, in the form of taxi applications and satellite navigation systems, which had the potential to enhance consumer choice and receive prompter choice.

The Review Panel was concerned that the failure to reform taxi regulation not only resulted in poorer performance in that industry, but that it also undermined the credibility of governments’ commitment to competition policy more broadly, making it harder to argue the case for reform in other areas. The Panel drew attention to the recent reform process in Victoria however as a demonstration that change was possible.

The Panel suggested that “the focus of reform in the taxi industry needs to be twofold: to reduce or eliminate restrictions on the supply of taxis that limit choice and increase prices for consumers; while ensuring that technological change that can benefit consumers is not discouraged”²⁸ and it made the following draft recommendation:

- States and Territories should remove regulations that restrict competition in the taxi industry, including from services that compete with taxis, except where it would not be in the public interest.

If restrictions on numbers of taxi licences are to be retained, the number to be issued should be determined by independent regulators focused on the interests of consumers²⁹.

²⁶ Australia, Competition Policy Review, Draft Report, September 2014, p.137.

²⁷ Ibid.

²⁸ Ibid., p. 139.

²⁹ Ibid., Draft recommendation 6.

5 Industry structure and regulation

Taxis, SCVs and PTs provide transport services for individuals and small groups of people. The services are flexible point to point services and on demand. Taxis, SCVs and PTs provide a vital service for people who have difficulty accessing public transport services or do not have public transport services available to them. People who do not have access to their own private transport can also rely heavily on these service providers. This includes low income people who typically spend a higher proportion of their incomes on taxis than do higher income earners.

5.1 The two-tier industry

By law, taxis are able to pick up customers from designated ranks or from street hails as well from bookings made through a TDS or directly to the driver. SCVs and PTs are not permitted to accept customers from ranks or street hails and their services must be pre-booked. Potentially there could be close competition between taxis, SCVs/ PTs in the area of pre-booked services. The law does not allow taxis, SCVs or PTs to provide fixed route services generally or to compete directly with public transport.

5.2 The supply side of the taxi industry

There are a large number of business entities that make up the supply side of the taxi part of the industry. A taxi needs a licence or plate to operate and ownership or leasing of plates is widely dispersed because of regulatory requirements. Taxi licences can be privately owned or leased from the Government. All licences issued since 2004 have been Government leases. Around 40% of all licences are in the hands of investors who lease their licences directly to drivers or to Taxi Management (Pooling) Companies (TMCs) which operate fleets of taxis. Many investors have had a past involvement in the industry as drivers.

The Taxi Dispatch Services (TDS) or networks provide booking and other services for operators. There are a number of TDSs in Perth, but the dominant firm, accounting for around 90% of bookings, is Swan Taxis, owned since 2010 by ComfortDelGro, a major operator of taxis in Singapore. ComfortDel Gro acquired a significant shareholding in Cabcharge through its acquisition of Swan Taxis. Since 2005 it has also had a 51% stake in a joint venture with Cabcharge, ComfortDelGro Cabcharge, which is the largest operator of commuter buses in Australia. Black and White Taxis is Swan Taxis main competitor and there are a couple of other small dispatch services. Any TDS established after 2000 is required to have at least 20 vehicles.

High concentration in dispatch operations reflects particularly the significance of network economies of scale in the industry. The larger a network, the more likely it is that the network will have taxis in the vicinity of a caller and the more likely it will get the business. It seems unlikely with the developments in communications technology that a natural monopoly in taxi dispatch exists across the whole city.

The TDSs do not operate their own vehicles or employ their own drivers. It may, perhaps be difficult to do so alongside other affiliated licence holders who would want assurance that they were not being discriminated against in their bookings.

The TDSs can closely monitor the taxis connected to their systems. The dispatch services are required to keep records and provide performance data to the DoT, report violent incidents, dangerous behaviour and non-payment of fares to the Department, operate an emergency alarm system with the taxis, have in place complaint handling processes and report serious complaints to the Department. The associations between dispatch services and taxi companies are shown below:

Table 3 Perth Taxi Dispatch Services and taxi company associations

Dispatch service	Taxi company
Swan Taxis	Swan Taxis 13Cabs Easy Access Perth Coastal Cabs Silver Service Tricolor Yellow Cab
Black & White Cabs	Black & White Cabs Sunseeker Taxis Maxi Cabs 13eCab
West Coast Cabs	West Coast Cabs
Rainbow Taxis	Rainbow Taxis
Carlisle Cabs	Carlisle Cabs
Cabwest	Cabwest
White Eagles	White Eagles

Taxis are required to be affiliated with a TDS³⁰. A similar requirement exists in most jurisdictions. The TDSs do have requirements imposed on them as part of their registration to regulate aspects of the conduct of drivers and the mandatory requirement to belong may assist in doing this. They also monitor vehicles and safety alarms. The VTII recommended that operators no longer be required to belong to a network providing adequate alternative arrangements were made to ensure the safety

³⁰ Department of Transport, Taxiplate Operating Conditions, Clause 3.1.10, 15 December 2010

of the driver and vehicle monitoring was maintained. It was considered that the mandatory affiliation requirement unduly enhanced the market power of the major networks. The ERA has also recommended that the requirement to belong to a TDS be removed.

Whilst the TDSs are subject to general competition law and the accountability imposed by reporting and other registration requirements, there is no control over the level or structure of the fees they charge. Monthly fees are around \$620. These are fixed charges, not charges based on jobs dispatched. In a more competitive environment it is questionable whether this basis of charging could be sustained.

5.2.1 Drivers

Drivers form the core of the taxi industry. They provide the services requested by customers and are the key to customer service satisfaction. There are nearly 6,000 licensed taxi drivers in WA.³¹

Licensing requirements for taxis are relatively rigorous compared to other jurisdictions in Australia. Taxi drivers require a T extension to their ordinary driver's licence and Omnibus/SCV drivers require an F extension. To be eligible to obtain a T extension a person has to be at least 20 years of age, not be a provisional driver and have held an unrestricted driver's licence for at least 3 years. An applicant must be of good character and provide identification and 2 character referees who they have known for at least 4 years. Before applying, a person must successfully complete a Taxi Driver Aptitude Test, aimed at determining skills and abilities in the English language and in numeracy. A psychological assessment is also part of this. Criminal and driver history checks on applicants are also done by obtaining a National Police Certificate, Traffic Conviction record and Traffic Infringement record. Applicants must undergo and pass a Medical Assessment to determine fitness to drive.

Applicants are then required to complete a Taxi Driver Training Course (8-10 days full-time or 6 weeks part-time) covering a range of skills and knowledge including things like local geography and routes, defensive driving, customer service and use of in-taxi equipment. Competency is tested on each of the units of learning covered. The major dispatch service providers are Registered Training Organisations and have a clear interest in ensuring there is a ready availability of drivers. However, an independent assessment of driver competency is carried out after completion of the training by DoT assessors. This, Taxi Driver Registration Test, has recently been tightened. It involves a theory test (with a high cut off mark) and a practical test in a simulated taxi. Knowledge of the new WA Taxi Driver Code is also assessed. The total cost involved in obtaining a taxi driver's licence is around \$1,200, including the training course and application fees.

³¹ According to the latest available statistics from the Australian Taxi Industry Association there were 5,921 taxi drivers in WA in 2013.

A further additional element to training now is a requirement that drivers complete 4 hours of professional development training once every two years prior to renewing their Taxi Driver Identification Card. This covers recent changes to the industry and 'building safer driving skills', which is provided under contract by RAC.

In addition to obtaining their T extension, MPT drivers are required to attend a session with an MPT Coordinator to learn about the work; to spend 2 days with an MPT driver/mentor on the road and successfully complete a 2 day approved training course.

The requirements for obtaining a taxi licence in non-metropolitan regions are much less than they are for the metropolitan region, reflecting different circumstances and difficulties obtaining drivers. Applicants are not required to undertake the formal training, or the aptitude or registration tests. Drivers are also exempt from the professional development training requirement.

Most drivers work under a bailment arrangement. They obtain use of the vehicle and its licence from a licence owner or holder for a shift or a number of shifts for a fee and pay for this from the income they receive from the meter. This arrangement ensures the driver has maximum incentive to pick up jobs. The alternative arrangement, more common in Melbourne, of sharing the income from the meter, is less frequently used in WA. In recent years the number of owner-drivers has increased significantly as a result of licensing reforms. Drivers have been able to lease licences from the Government in their own name.

The DoT has surveyed drivers each year since 2009. In its latest survey³², 47% of drivers leased a plate, roughly half from private owners and half from the Government. Others drove shifts for a licence holder (22%); a TMC (19%); or were plate owners (8%) or had other arrangements (3%). About one-half of the surveyed drivers were essentially full time driving 5-6 shifts/week of around 10 hours duration. The number of jobs/shift varied, but was typically around 10 per shift, or 1 per hour. Average fares varied by shift but was \$25.18 on Saturday nights and around \$21.45 on weekdays.

In addition to tightening up on entry controls, consistent with the view taken by BSD in their NCP review in 1999, the Government has also moved to improve the standards of drivers already within the industry. New taxi driver occupational licensing legislation has recently been passed by the Parliament drawing together elements from other industry specific regulation³³. The legislation also introduces a penalty points system for drivers and gives statutory backing to a new Code of Conduct for drivers. The Code provides a comprehensive listing of expected driver behaviours and unacceptable behaviours. It also outlines what rights drivers have in dealing with customers. Under this legislation, the Government has a broader range of powers to deal with inappropriate behaviour, including suspending and cancelling

³² Department of Transport, Driver Survey 2013, Executive summary.

³³ Taxi Drivers Licensing Act 2014

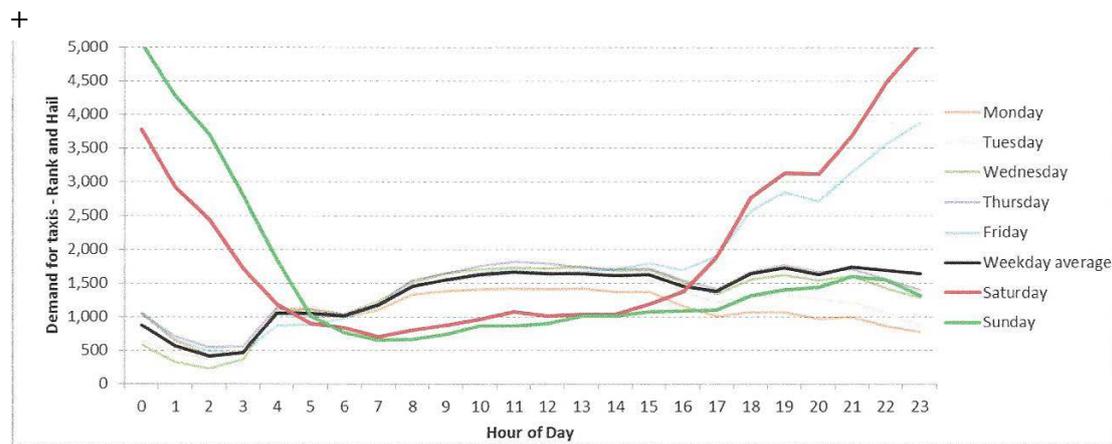
licences and requiring drivers to undertake re-training. To a significant extent these changes can be seen as recognition of the failure of self-regulation of the industry, in particular the unwillingness of dispatch services to exercise effective discipline over their drivers.

5.3 The demand side of the taxi industry

The demand for taxi services is influenced by many factors and varies in total according to the time of day, the days of the week, the month of the year and the timing of special events. In particular, the industry is characterised by having a very concentrated peak period of demand on Friday and Saturday nights when more than one-half of trips are taken.

An indicator of this demand variability is given by the number of jobs dispatched and provided from ranks, as shown in Graph 1 below³⁴. On weekdays in Perth an average of less than 1,000 jobs is undertaken in the early hours of the morning. This number rises between 3.00am and 8.00am to around 1,500 and reaches around 1,750 between 11.00am and 12.00am. In the hours before 5.00pm it dips below 1,500 and then rises again to around the 1,750 mark. There is some variation between days with Mondays being quieter on average, but these variations are not great. The more significant variations come with late Fridays when the number of jobs exceeds 3,000 from 9.00pm and continues at this level to 2.00am Saturdays. On Saturday evenings and early Sunday mornings the numbers are even higher rising to around 5,000 per hour.

Graph 1 Total demand by day of the week and hour



Source: Department of Transport, Rank and Hail Data, 2013, p.3

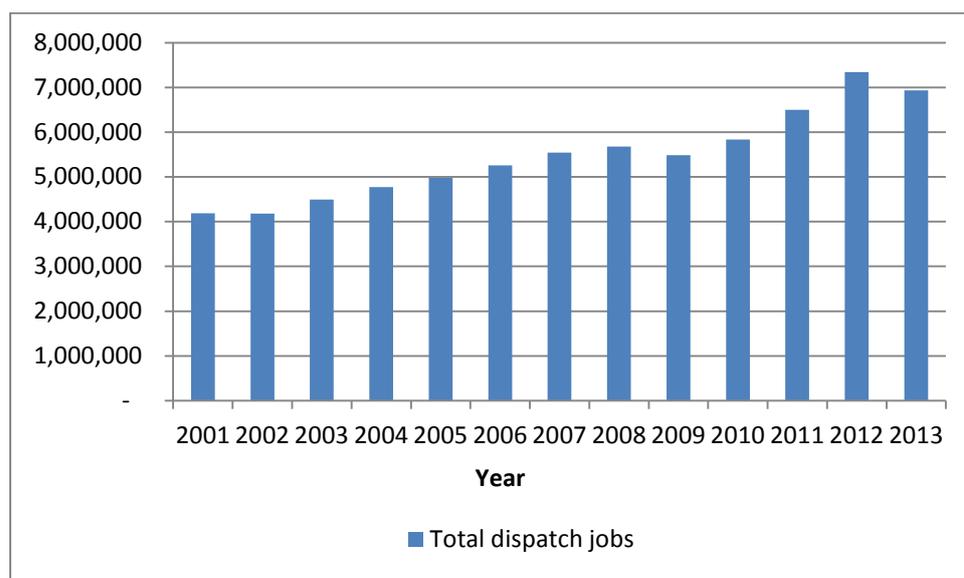
³⁴ The data provided here relate to 2012 and 2013. The supply of taxis will influence also the number of jobs provided. Supply varies in line with demand, but the availability of taxis is also a factor that can influence demand.

Data provided by the DoT suggests that overall there is more dispatch (through taxi dispatch services) than rank and hail work. Dispatch makes up about 54% of all taxi trips, but this percentage varies significantly at different times of the day. Rank work is much more important at the weekend peak times and is also more important after normal working hours and early in the mornings.

In total (taking into account booked jobs and jobs picked up off the street) there were 13.4 million jobs in Perth recorded by the two main dispatch companies in 2012 and 12.9 million jobs the following year, a drop of 3.9%. This decline has continued with total jobs dropping by 3.4% in the first 8 months of 2014 compared to the same period in the previous year³⁵.

A longer term perspective on demand is provided by the TDS dispatch data alone since 2001, as shown in Graph 2 below. Rank and hail data are not available prior to 2012. The Graph shows a steady increase in the number of jobs up to 2008, a drop off in 2009 and then a significant rise in 2010-2012, before a sharp fall in 2013 consistent with a decline in economic activity more generally.

Graph 2 Perth Taxi Dispatches 2001-2013



Source: Department of Transport

There is widespread use of taxis across the population, as highlighted by RAC Taxi Industry Research. However, different segments of the population can be readily distinguished in their use of taxis. Business users can be distinguished from ordinary users and tourists. Low income users can be distinguished from high income users and persons with disabilities and the frail aged can also be distinguished. Demand elasticity, that is, the responsiveness of these groups to changes in factors affecting demand, will vary across these groups. The VTII obtained estimates of demand

³⁵ Data on the number of booked jobs has been reported to the Department at least since 2001, but the data for street jobs has only been available since the start of 2012.

elasticities for Melbourne (see Table 4 below) and whilst it cannot be assumed that estimates for Perth would be identical they are not likely to be greatly different.

Table 4 Demand elasticity estimates by user segment, Melbourne 2012

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

Source: VTII, Customers First; Service, Safety, Choice, Draft Report, p. 440.

The two determinates of demand considered here are fares and waiting times. The estimates show that for a 10% increase in fares, tourism and night time travel will fall by more than 10%. Business travel will only drop by 6.4% and others with a greater dependency on taxis, often low income earners and people with disabilities, will also decrease their use, but by proportionally less than the fare increase. Overall, total demand is estimated to decline by 10.4%. This is a very significant result as it suggests that customer resistance to fare increases has reached the point where further increases will cause industry revenue to decline marginally.

The impact of higher waiting time is particularly felt by those with permanent disabilities receiving subsidies similar to the TUSS. For all consumers, a 10% increase in waiting time will reduce demand by 3.9%. Waiting time will be influenced by the availability of taxis which in turn will be influenced by the number on the road at any one time.

5.4 Licensing in more detail

The central feature of the structure and regulation of the taxi industry is the licensing system which determines who is able to enter the industry and what they are able to do. A summary of the key provisions of the relevant legislation is provided in Appendix 1. The legislation covering taxis in the Perth metropolitan area is different from the legislation affecting non-metropolitan regions. There are differences between the different pieces of legislation in things like definitions, level of penalties and licensing processes which seem to have little logical foundation, but reflect the legislation's ad hoc development over time.

The Taxi Act 1994 defines a taxi as “a vehicle which is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward ...”³⁶ The expression ‘plying for hire’ was considered by the recent UK Law Reform Commission review of taxi and private hire services legislation to be outdated as a basis for distinguishing taxi and hire car services having originated before private hire services existed and being intended to distinguish licensed from unlicensed trade³⁷. The Commission recommended that the expression be removed from the legislation. This, perhaps, reinforces the need for the WA legislation to be reviewed.

All vehicles operating for hire or reward in WA must hold an appropriate licence issued by the Government. The Passenger Services Business Unit (PSBU) of the DoT manages the issuing of licences. Four types of licences are issued namely:

- Taxi licence (Metropolitan and Country)
- Omnibus licence
- Small Charter Vehicle Licence (SCV) – Metropolitan area
- Private Taxi (PT) – country areas

5.4.1 Metropolitan licences

Metropolitan taxis are regulated by the DoT under the Taxi Act 1994 and Taxi Regulations 1995. There are four categories of licence available covering the type of vehicle and when and where they can operate in the metropolitan area. These are Conventional, Multi-purpose, Peak period and Restricted-area licences.

Most metropolitan taxi licences issued in the past were perpetual, transferrable and assignable. A high proportion of these licences are leased to TMCs. A licence holder can lease the plate or the plate and the vehicle, or may drive the vehicle and lease the vehicle for particular shifts or times of the year. The Government regulates lease rates by determining the maximum rates licence holders can charge. Current maximum lease rates are as follows:

³⁶ Taxi Act, section 3

³⁷ UK, Law Commission, Taxi and Private Hire Services, May 2014.

Table 5 Perth maximum plate and shift lease rates, 2014

Plate lease rates (plate only)		
Taxi plate lease rate/week		\$355.00 (excl. GST)
Peak period taxi plate lease rate/week (Friday and Saturday night)		\$71.50 (incl. GST)
Peak period taxi plate lease rate/shift (other than Friday and Saturday night)		\$35.75 (incl. GST)
Shift lease rates (plate and vehicle)		
Friday or Saturday night shift		\$144.00 (incl. GST and \$3.00 surcharge)
Any other 12 hour shift		\$90.23 (incl. GST)

Maximum lease rates were introduced in 1997, prior to the BSD report, which noted plate lease rates of around \$380/week at the time. The maximum plate lease rate had increased to \$453/week by 2004, but following the Giffard Report was reduced to \$355/week, but GST was then also excluded from the rate. The maximum rate has not changed since then.

Since 2004 licences have also been leased by the Government. Current lease plate fees (1 July 2014) if they were available are as follows:

Table 6 Perth taxi plate government lease rates, 2014

Conventional taxis	8 year lease period	\$2,678.00/quarter (vans) and \$3,347.50/ quarter (sedans)
Multi-purpose taxis	10 year lease period	\$1,340/quarter
Peak period taxis	10 year lease period	\$535.00/quarter (vans) and \$670.00/quarter (sedans)
Restricted-area taxi	10 year lease period	\$1,340.00/quarter

Lease rates for the conventional taxis do not appear to have changed since 2004.

Government leased plates are not available as of right but are issued periodically and are allocated to existing drivers based on driver historical performance assessed in comparison to other drivers taking account of things like number of jobs performed,

rejected jobs and record of complaints, infringements and adherence to the Driver Code of Conduct.

The leasing of licences by the Government was an outcome of the NCP process in the late 1990s- early 2000s. The lease rate for these licences was deliberately set at a lower level than the market rate at the time for existing perpetual licences to benefit the successful applicants.

As Table 7 indicates, as at 1 July 2013, there were 2215 metropolitan taxi plates in operation³⁸. Around 53% of these were government leased plates and 47% privately owned plates. Conventional or full licences accounted for nearly three-quarters of the total; MTPs only represented 5% of the total; 19% of licences were for peak period only and 3% were Restricted-Area licences.

Table 7 Perth taxi licences by type and ownership as at 1 July 2013

Licence type	Leased	Owned	Total	%
Conventional	624	984	1608	73
Multi-purpose	99	17	116*	5
Peak period	394	22	416	19
Restricted-area	60	15	75	3
Total	1173 (53%)	1038 (47%)	2215	100

Source: Taxi Industry Board, Annual report for Year Ended 30 June 2013, p.6

For all taxis there are also detailed requirements specified as licence conditions which cover operating times (conventional taxi plate leaseholders are required to drive for at least 50% of the 72 required hours of operation each week, which includes the peak hour periods); affiliation with a registered TDS; compliance with maximum fares; driver standards; driver compliance with TDS rules and directions; compliance with vehicle standards and inspections; vehicle equipment and signage; insurance and record keeping.

The Restricted Area licences cover defined areas (Armadale, Kalamunda/Mundaring/Swan, Rockingham/Kwinana and Wanneroo) on the edge of the metropolitan area. Holders of these licences are restricted to picking up in the area covered by their licence, although they can drop off passengers off outside their areas.

³⁸ Taxi Industry Board, Annual Report Year ended 30 June 2013, p. 6. The actual number shown in the report was 2211, but this reflects a calculation error in relation to the Multi-purpose taxi total number.

5.4.2 Country taxi licence

Country taxis are regulated by the DoT under the Transport Co-ordination Act 1966, the Transport (Country Taxi Car) Regulations 1962 and the Country Taxi-car (Fares and charges) Regulations 1991. Conventional, Multi-purpose, Peak-period and peak-season licences are issued. The Department has outlined the policy applying to the issue of country taxi licences as follows:

“There are a fixed number of licences in each country area. In all towns that currently have taxis: DoT undertakes a review of the need for additional licences every three years. These reviews can be brought forward in instances where DoT, members of the public, the taxi industry or government feels that the demand for taxis has increased significantly or that the public is not being serviced effectively. The review process is undertaken by the regionally based Regional Manager who reviews changes in population, taxi demand and levels of service. In towns with more than five taxis an independent consultant undertakes a survey of residents to gauge their experiences with the taxi industry. The Regional Manager will undertake interviews with the local taxi companies, local businesses and government agencies to ascertain the need for additional licences. If the review process determines that there are insufficient taxis to cover demand in a certain country area, additional licences will be issued by way of a public advertising process. The advertising process involves advertising in the local paper/s that additional licences are being made available.

Interested parties will be able to receive an application package. This package will include an application form that needs to be completed. All applications will be assessed against four criteria including: business capacity and experience, customer service, enhancements to competition and preference to owner-driver.”³⁹

Non-metropolitan markets vary considerably in size from the largest, Kalgoorlie/Boulder with 42 licences at present, to numerous very small towns with only one licence. Most commonly there is only one taxi dispatch/company in a town, but some towns have 2 or 3 and in one case up to 5 taxi companies. Table 8 below indicates that in most towns the increase in licence numbers since 1999 has been small.

³⁹ WA, Department of Transport, Country taxi licence policy, n.d.

Table 8 Non-metropolitan WA Taxi licences 1999-2014

Town	2014	1999
Kalgoorlie/Boulder	44	42
Mandurah	36	28
Carnarvon	23	24
Bunbury	30	23
Port Hedland	23	22
Geraldton	25	22
Brome	29	17
Albany	18	15
Karratha	18	15
Collie	11	11
Busselton	10	7
Derby	7	7
Esperance	8	6
Northam	4	6
Kununurra	8	6
Newman	3	4
Fitzroy	4	4
Margaret River	7	4
Onslow	3	4
Roebourne	5	4
Tom Price	3	4
Exmouth	3	3
Manjimup	2	3
Pinjarra	3	3
Narrogin	3	3
Others	34	29
Total	366	316

Source: Department of Transport; BSD Consultants, Review of the Western Australian Taxi Industry, Final Report, August 1999.

Regulated maximum fares are determined on a region by region basis and are increased in line with movements in the Private Motoring Index. Region specific cost indexes were proposed for use in 2013 to escalate base rates⁴⁰. In exceptional instances the local taxi industry or DoT staff can submit additional information to support a higher increase.

⁴⁰ Department of Transport, Fair Increase, A move to region specific taxi fare increases, 28 June 2013.

Country taxis are required to pass an annual road worthiness inspection and be maintained in a presentable condition, but there are no age restrictions on these vehicles. There is no requirement that these vehicles have security cameras.

5.4.3 Omnibus Licence

Omnibus licences in general are restricted to operating pre-booked services, pre-agreed services or pre-organised tours and charters. The licence covers a range of vehicle types, including luxury vehicles undertaking high end charters, coach services linking regional centres, winery tours, limousines, 4WDs on outback tours, buses providing hotel pickups, Transperth services, airport shuttles and private chartering⁴¹. The number of Omnibus licences is not restricted, but applications are assessed to ensure they are not going to compete against government provided or supported services. Omnibuses are restricted from competing against taxis as they cannot operate from taxi ranks, ply for hire or tout on roads or other public places for the purposes of hire. They must not display signs resembling taxis.

There are a number of categories recognised within the Omnibus licence. These include:

- Regular Passenger Transport
- Tour and Charter
- Safari Tour and Charter
- Shuttle Service
- Tourism Transfer
- Speciality/Novelty Vehicle – motorcycle, Tuk Tuk or Hot Rod
- Small Charter Vehicles (Metropolitan area only).

Each licence category and licence is constrained by conditions attached to the licence. Licence conditions currently include the following broad framework:

- Where certain types of services can operate
- The type of vehicle that can be used for particular services
- The maintenance and serviceability of the vehicle
- Who can drive the vehicle
- Minimum fares to be charged (under 12 passenger seats)
- Basic safety equipment
- Driver fatigue management
- Competition with the taxi industry.

The conditions attached to individual licences, however, are not disclosed publicly.

⁴¹ WA, Department of Transport, Omnibus and Private Taxi Broad Policy Overview, n.d.

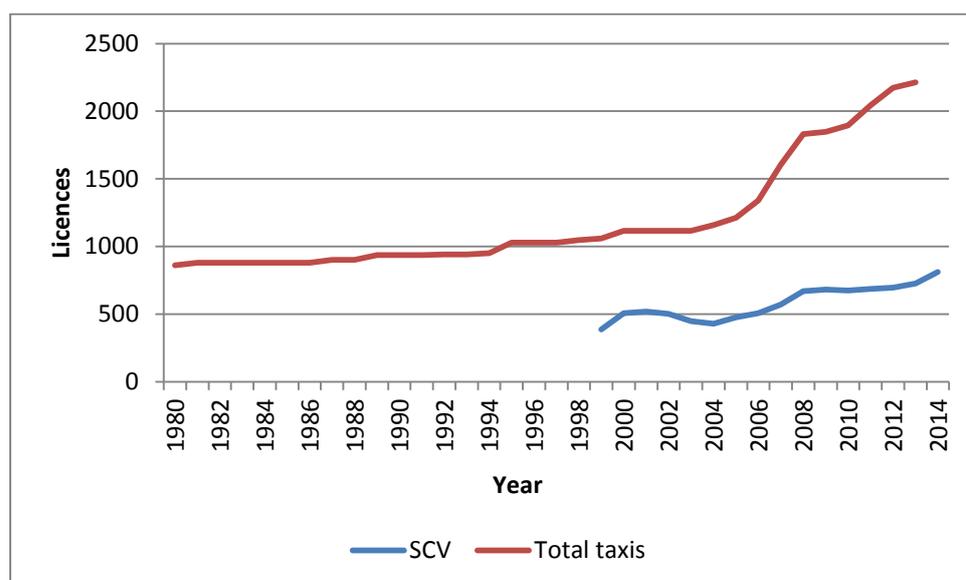
The operating conditions for SCV licences specify that they are non-transferable. They must be used solely for the conduct of charter trips. They are not permitted to carry luggage, baggage or other goods to the exclusion or inconvenience of passengers. Individual passenger fares are not permitted and minimum fares of \$60 for vehicle with less than 5 passenger seats and \$85 for vehicles with more than 5 passenger seats must be charged. Detailed records of all charter operations must be kept and supplied to the Minister as required.

Within the SCV licence there are a number of categories recognised. These are shown below together with the number of licences on issue as at 30 June 2014.

Group A - Luxury Vehicle Age Unlimited	72
Group A - Luxury Vehicle, 8 year limit	330
Group A - People Mover	54
Group B - Modified/Stretched Vehicle	166
Group C - Classic/Vintage Vehicle	75
Group D - Green Vehicle	18
Total SCV licences	715

The growth in the number of SCV licences over time is shown in Graph 3 below, together with the growth in total taxi licences. Between 1999, when the SCV data is available from, and 2014 the total number of SCV licences increased from 386 to 814, or by 110.8%. This increase was similar to the growth in taxi licences over this time, which was from 1058 to 2214 or by 109.3%.

Graph 3 SCV licences and Metropolitan taxi licences 1980-2014



Source: Department of Transport

An Omnibus Licence could cover multiple purposes, although very few do. A vehicle could in theory be licensed as a taxi, for example with a peak period licence and an omnibus at other times, provided it did not then display taxi signage. Businesses may also operate a range of licensed vehicles under the one banner and phone number, providing the vehicles operates within their individual licences. Again there are very few cases where this happens.

Vehicles subject to an Omnibus licence must pass visual and mechanical inspections. Stretch limousines being licensed for the first time or recently modified are subject to more detailed assessment.

An F extension licence, which drivers require for an Omnibus/SCV, requires the same driver record, criminality and medical checks as does a T extension. However, there are no requirements to complete the Aptitude, Training or Registration Tests taxi drivers have to, or to undertake professional development training. However, applicants must be a year older and have had an unrestricted licence for a year longer than is required for a T extension. It is appropriate that SCV drivers do not have the same rigorous requirements that taxi drivers have, but it is not clear why they should be required to be older and to have held an unrestricted licence for longer. These latter conditions may be appropriate for bus drivers, but they hardly seen appropriate for SCVs.

5.4.4 Private Taxis

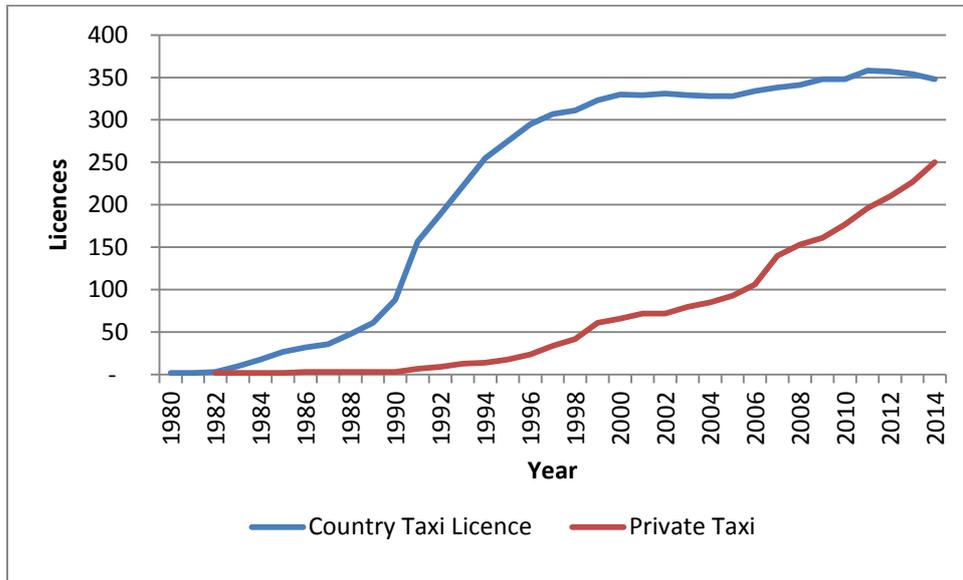
Private taxis provide pre-booked services in non-metropolitan regions. They cannot operate from taxi ranks or 'ply for hire' or tout on roads or other public places for the purpose of hire. There are no direct restrictions on the number of PT licences, but they are restricted in a number of other ways. They are essentially considered to be luxury passenger vehicles capable of carrying eleven passengers or less, used solely for charter and with their journeys commencing outside the metropolitan area. Four categories of PT are recognised – Group A luxury Vehicles; Group B Modified/Stretch Vehicles; Group C Classic/Vintage vehicles and Group D Green Vehicles. PTs are also not permitted to operate along established routes with established pick up and drop off points and cannot operate off-road.

A significant further restriction placed on PT licensees is that they charge trips according to the time occupied and the distance travelled during the trip, and at a minimum rate of 30% above the maximum taxi fare detention. A minimum of one hour must be charged per hiring.

These restrictions placed on the operation of PTs have nothing to do with safety or ensuring minimum quality. They are designed to ensure PT services are differentiated from taxis and omnibuses. The restriction on fare setting is designed to weaken their competitive influence on taxis.

In 2014 there were 250 PTs compared to 348 country taxis⁴². As Graph 4 shows there has been a more rapid growth in PT licences than Country Taxi licences since 2000.

Graph 4 Private Taxis and Country Taxis 1980-2014



Source: Department of Transport

⁴² Table 8 shows a total of 366 Country Taxis. The difference may be due to the inclusion of peak period licences in this table, but this has not been confirmed.

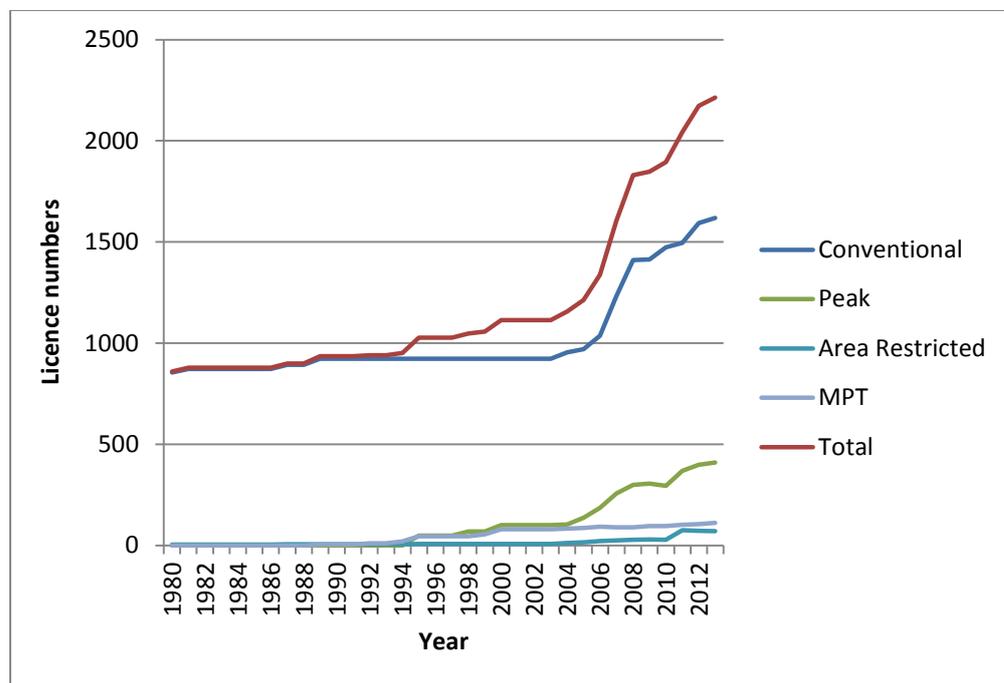
6 Taxi accessibility: availability and affordability

RAC's mobility agenda focusses on the issues of safety, accessibility and sustainability. Aspects of each of these issues are discussed in sections six and seven of the report.

6.1 Metropolitan area licence number restrictions

The number of taxi licences issued by the Government was up to the last decade tightly restricted. There were relatively few new licences issued in the period prior to the NCP legislative review process of the late 1990s –early 2000s, as shown by Graph 5 below. Over the two decades from 1980 to 2000 the total number of licences increased from 861 to 1115, or by only 29.5%. By 2013, the number had increased to 2,214, or by 98.6% from 2000. The number of peak period and area restricted licences has increased markedly in this time, but the number of conventional licences also increased significantly, by 72.2% from 2000 to 2013. The more rapid growth in peak period licences may, in part, be due to the restriction which limits the percentage of conventional plates which can be leased from the Government.⁴³

Graph 5 Licences issued Perth Metropolitan Area 1980-2013 by type



Source: Department of Transport

⁴³ Section 16 (3) Taxi Act 1974.

The decision to issue new licences is a political one, made by the Minister essentially on an ad hoc basis. The TIB has indicated that in recent times plate releases were following recommendations it had made that these be based on:

- Government owned lease plates in the short to medium term;
- Performance data; and
- A staged approach when plates are released to avoid flooding the market and allow industry fitters to keep pace with additional vehicle equipment requirements⁴⁴.

However, these are general considerations only and they provide no certainty in relation to outcomes. Given this, there is always the likelihood that existing licence holders will object and seek to slow down the process of issuing new licences.

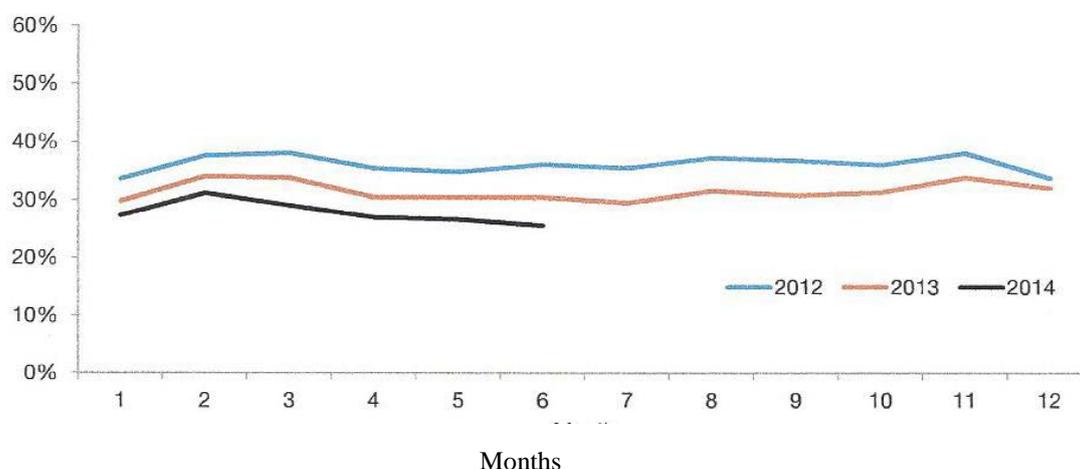
The DoT has, since 2001, monitored service performance standards in the industry. Quarterly bulletins are published and key performance indicators tracked. Some of these indicators may be useful in assessing the supply/demand balance in the market and thus the need for new licences. For example, jobs not covered relates to jobs where a passenger who had booked through a dispatch centre was never picked up or gave up waiting after 15 minutes. A higher proportion of jobs not covered may indicate a relative shortage of taxis, though without knowing anything about rank and hail jobs and trends it is difficult to be too conclusive. Exclusion of high demand public holidays and special events from the indicator measure also renders it less useful as an overall indicator. Similarly waiting time performance may indicate something about the supply/demand balance, but again this measure only covers jobs booked through the taxi dispatch network. Nevertheless, the TIB has suggested that the plate releases from 2004 did result in a significant improvement in waiting time performance⁴⁵.

Another important set of indicators may be the engaged utilisation rate of vehicles and their utilisation rates. The former refers to the percentage of time a logged on taxi is occupied by a fare paying passenger while the latter refers to the percentage of time a driver is logged on and willing to take work. It may be difficult to determine optimum rates for these indicators, but their trends may be revealing. For example, Graph 6 shows that engaged utilisation has been lower in 2014 than in 2013, which in turn was lower than 2012. Graph 7 also shows that utilisation in 2013 and 2014 was generally significantly below 2012. Both trends seem consistent with the significant drop in demand experienced since 2012. Changes in vehicle utilisation are an important way that supply adjusts to demand movements and it is important that operators and drivers have the flexibility to make these changes. However, licence conditions work against this by requiring minimum hours of operation of taxis.

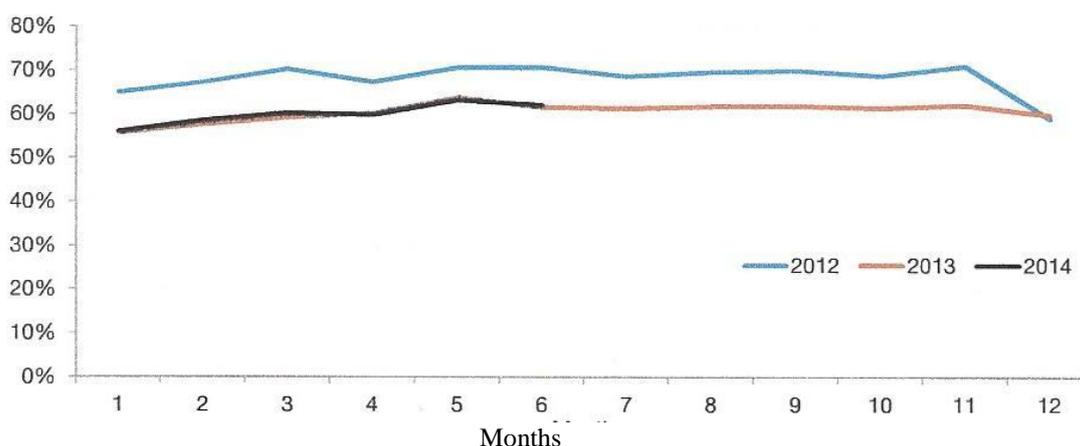
⁴⁴ Taxi Industry Board, Annual Report for year ended 30 June 2013, p. 6.

⁴⁵ Ibid., Strategic Plan 2009-14, 29 October 2009 (amended September 2011), p.2.

Graph 6 Engaged utilisation rates per month, Perth taxis 2012-2014



Graph 7 Utilisation rates per month, Perth taxis 2012-2013



Source: Department of Transport

The main indicator used in the past to determine administratively whether or not new licences should be released has been the ratio of licences to population. Appendix 2 outlines the history of using this ratio to cap licence numbers. This ratio was first used in Perth in 1958. It continued to be used until 2008, during which time the increase in licences was severely constrained. The ratio varied at different times from 1:600 to 0.86:1000, highlighting its arbitrary nature. No reference has been found which provides a detailed rationale for how the ratio cap was determined. Rather it seemed to be made to fit other general perceptions, generally strongly influenced by plate owners, of how many taxis were in excess at the time it was set.

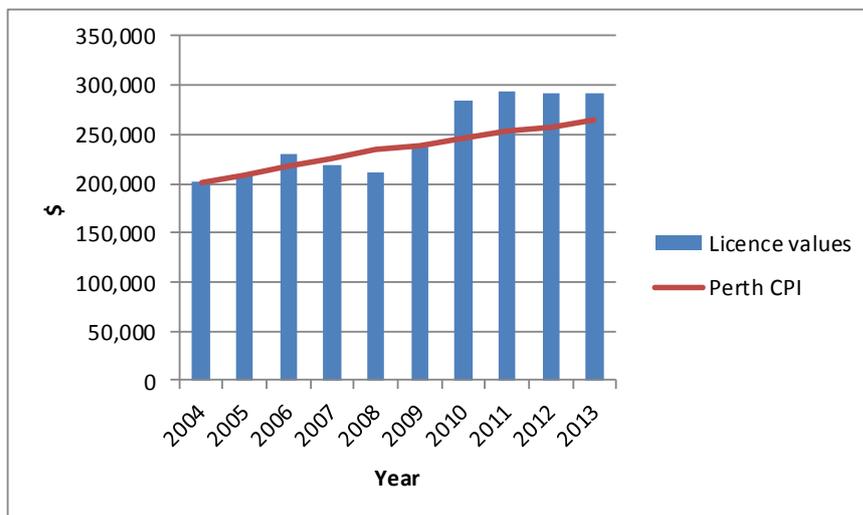
Although the size of the population in any particular area may be a factor influencing demand, there are also many other influences. The level of economic activity, airport usage and tourism, spatial patterns of growth, availability of public transport, patterns of car ownership, competitiveness of substitutes like SCVs, as well as taxi fare levels are some of these. A total population indicator also says nothing about the

composition the population, which is likely to have a strong influence on demand. The survey research suggests that the Gen Y cohort is a significant user of taxis, so total demand could be expected to be higher the larger this group is relatively in the population. Some years ago, forecasts predicting a significant aging of the WA population led the TIB to suggest “a substantial increase in the underlying market for driver assisted services such as taxis and other forms of public transport is in prospect.”⁴⁶

In other jurisdictions more sophisticated approaches have been tried to estimate the demand for taxi services by, for example, also taking account of other indicators of general output or income and of airport growth. Although the demand estimates obtained from these approaches are likely to be more accurate measures, they still do not guarantee that the decisions on licence numbers made administratively will be any better. Delays in decision making and a failure to deal with shortage backlogs have been common features of these administrative approaches.

A key indicator of the impact of restrictive licensing and of the need for new licences is the market value at which licences transfer. In 2013, as shown in Graph 8 below, licences were transferring for an average of around \$291,000. Licence transfer values rose by about 5% per annum on average since 2004. This was slightly in excess of what they would have been if they had just kept pace with the Consumer Price Index All Groups CPI for Perth, as shown by the red line in the graph.

Graph 8 Perth Metropolitan Conventional Taxi Plate Transfer Prices 2004-2013



Source: Department of Transport

The amount that someone is willing to pay to acquire a licence could be expected to reflect their assessment of the net income they believe they will be able to obtain from having it and also any potential capital growth in the value of the licence over time. In general, it is likely to be the case that a larger number of taxis on the road will

⁴⁶ Ibid., p.2.

mean the average number of jobs/hour/driver will be smaller, resulting in lower returns. This would make it more difficult for licence holders to impose high lease fees, which may translate ultimately to reduced licence values. The links in this chain are however not straight forward. For example, no consideration has been given to the waiting time effect on demand. A larger number of taxis on the road will mean people have to wait for shorter periods of time to obtain a taxi and this has been found to increase demand overall.

Licence numbers could then be set on the basis of a target licence value with more licences being issued when licence values moved above a target level.

Following the reforms to the taxi industry adopted by Victoria, taxi licence values have fallen from around \$500,000 prior to the VTII to around \$280,000, now roughly on a par with Perth. Licence values are significantly higher in Brisbane at \$511,000; Sydney at \$388,000 and Adelaide at \$389,000, as shown in the table below. They are lower in Hobart at \$153,000 and the ACT at \$261,000⁴⁷. This might suggest that the degree of licence number restriction is a little less in Perth than other jurisdictions on average. Licence values have also escalated more rapidly in the other jurisdictions, except the ACT, than they have in Perth since 2004, again suggesting that the release of new licences in Perth over this period of time may have had some dampening effect on licence price growth.

Table 9 Perth average conventional taxi plate transfer prices 2004-2013

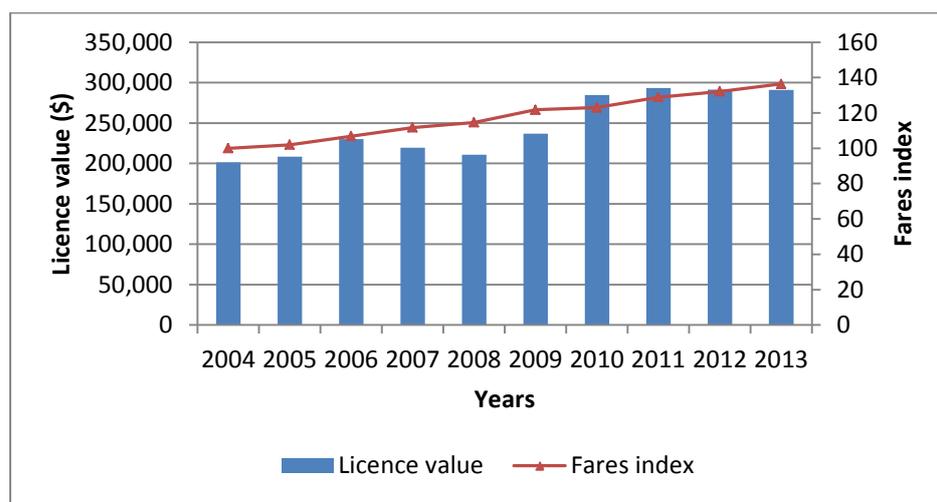
	2004	2013	% change
Sydney	\$257,818	\$388,000	50.5
Melbourne	\$345,000	\$280,000	(18.8)
Brisbane	\$320,000	\$511,000	59.7
Adelaide	\$162,900	\$389,000	138.8
Perth	\$200,200	\$291,140	45.4
Hobart	\$100,000	\$153,000	53
ACT	\$260,000	\$261,000	0.4

Source: Australian Taxi Industry Association

It is important to appreciate, however, that licence values will not just be influenced by the number of licences on issue. They will also be influenced by the level of fares set for the industry. Indeed, there often appears to be a stronger correlation between fares and licence values over time. The reason for this is that fare increases provide an opportunity for plate holders to increase their effective licence lease charges to drivers, notwithstanding any other controls on lease and shift rates than may be in place. As can be seen from Graph 9 below, there has been a close link between the movement in regulated taxi fares and licence values over the past decade.

⁴⁷ Data as at 31 December 2013, Australian Taxi Industry Association

Graph 9 Perth taxi fare index and taxi plate transfer prices 2004-2013



Source: Department of Transport

As previously noted, lease rates for both privately owned and government plates have been capped in Perth since the early 2000s and the caps have essentially been the same since being introduced. The fact that licence values have continued to rise suggests that the lower government lease rate has not had an overall dampening effect on the lease rates for privately owned licences and, moreover, that actual market lease rates are likely to exceed the caps set. This would not be surprising given the continuing restrictions on licence numbers⁴⁸.

6.2 Maximum fares

Taxi fares are regulated for the Perth metropolitan area and for the nine non-metropolitan regions of WA. Maximum fares are determined by the DoT (Director-General) and adherence to them is a condition of a licence.

The basis on which maximum fares are set for Perth, their level and structure is broadly similar to what other Australian jurisdictions have done in the past. Criticisms of fare setting by the VTII⁴⁹ and subsequently accepted by the IPART in NSW⁵⁰ and the ESC⁵¹ in Victoria are, therefore, also likely to apply, at least to some degree, in WA.

⁴⁸ It is interesting to note that licence values in Perth and Melbourne were relatively close in 2013 at \$290,000 and 280,000 respectively. The cap on lease rates in Perth was around \$18,500 per annum, but lease rates in Melbourne were around \$27,000.

⁴⁹ Victoria, Taxi Industry Inquiry, Draft report, May 2012, especially chapters 10.5 and 20.

⁵⁰ NSW, Independent Pricing and Regulatory Review Tribunal, Review of maximum taxi fares and review of annual Sydney taxi licences from July 2014, Final Report and recommendations, February 2014.

⁵¹ Victoria, Essential Services Commission, Taxi Fare Review 2013-14, Final Report, 2014.

Specifically, there is the need to ensure:

- fare setting and licensing decisions are closely coordinated,
- fare regulation is conducted by independent experts and not politicised,
- the problem of incorporating licence values into price setting, particularly the circularity that can arise if higher licence values feed into higher fares which in turn add to licence values, is avoided,
- demand as well as supply or cost factors influence the level of prices,
- the structure of fares provides appropriate incentives for drivers and passengers to allow supply and demand to remain in balance over time and space, and, as far as possible,
- flexibility in pricing encourages different service, quality and fare combinations.

Taxi fares in the Perth metropolitan region have been adjusted regularly over time, essentially taking into account movements in a relevant basket of costs. This approach was modified and further developed by PwC in 2008⁵²; by the TIB in 2010⁵³, which determined costs for a representative taxi business/operator; and again by PwC in 2011⁵⁴. The operation of the cost model applied in August 2011 by PwC can be readily seen from the table below, which indicates the cost components, their weightings, the increases in the cost components which were determined mainly by applying general indexes, and the resulting contribution to the calculated fare increase.

⁵² WA, Department for Planning and Infrastructure, Recommendation report – taxi fare increase for 2008/09, Final report, 12 December 2008.

⁵³ Department of Transport, Revised Metropolitan Taxi Fare Model Based on 2010 Taxi Industry Board Review, November 2010.

⁵⁴ PwC, Letter to Department of Transport, 22 August 2011.

Table 10 PwC Cost model, August 2011

Cost component	Revised TIB weighting	Cost movement: 9mths to Jun 2011	Contribution to fare increase	Cost escalation
Notional driver labour wages	50.0%	2.5%	1.27%	WA Labour Price Index (LPI)
Notional operator labour	1.7%	2.5%	0.04%	
LPG fuel	6.1%	9.0%	0.55%	WA Metro LPG Prices from FuelWatch
Repairs & maintenance	7.5%	-4.7%	-0.35%	CPI Motor vehicle repairs and servicing (Perth)
Other operator costs	4.9%	2.5%	0.12%	CPI: All groups (Perth)
Comprehensive insurance¹	2.2%	11.8%	0.26%	Taxi Insurance Co-operative (TIC)
Third party insurance	0.8%	0.0%	0.00%	DoT
Vehicle leasing / financing charges	6.0%	3.7%	0.23%	RBA Small Business Term Loan Rate
Rank fees²	4.9%	8.0%	0.39%	Swan Taxis
Sub-lease fees	15.8%	0.0%	0.00%	DoT
Total	100.0%		2.51%	

Whilst the model allows for regular escalation of fares, it is not clear how the fare base has been set and to what extent this represents an efficient fare level⁵⁵. There is no indication that the representative firm is an efficient firm. Productivity improvements over time do not appear to be allowed for, except to the extent that the general cost indexes do so.

The model includes sub-lease fees, which are the cost the operator has to pay a licence owner for the lease of the licence. These costs, which account for nearly 16% of the total costs, are a real financial cost for an operator, but they are not an efficient economic cost. They derive from the value of the licence, which in turn arises from the restriction imposed on licence numbers. If licence numbers were not restricted in number their value would be very small. Drivers who lease their licences from the Government for less than the sub-lease fees built into the model will benefit from fares being based on a higher, less efficient, cost level. As indicated in the table, the escalation factor for sub-lease fees is zero. This, at least, means the circularity problem, mentioned above, is not present.

Determining fares on the basis of cost movements for a representative firm may also fail to account appropriately for changes in market demand. Falling demand may, for

⁵⁵ The Taxi Industry Board indicated that a sub-committee had examined the base fare and after discussion with the Economic Regulation Authority had concluded it was appropriate and did not need to change. No further explanation was provided. Taxi Industry Board, Annual Report for the year ended 30 June 2013, p. 7.

example result in lower vehicle utilisation resulting in higher average and fixed costs. It would be perverse to allow fares to rise in this situation in line with the movement in average costs. The model could deal with this issue by assuming a normal vehicle utilisation rate. Another way that the impact of demand may be taken account of is by not escalating fares in a particular year or years.

The structure of fares in Perth is broadly comparable to other jurisdictions as shown in Table 11 below. The three components of the fare are the flagfall, which is a fixed charge levied when entering the taxi, and variable charges relating to the distance travelled and length of time the taxi is delayed by traffic or other factors (waiting time). Three time periods are distinguished with the flagfall, distance and waiting time rates varying between these periods. Tariff 1 covers Monday to Friday from 6.00am to 6.00pm; Tariff 2 covers Monday to Friday 6.00pm to 6.00am and all day public holidays. Tariff 3 applies when there are 5 or more passengers and hence is only relevant to larger taxis. Extra ‘ultra-peak’ charges also apply for midnight to 5 am on Friday and Saturday nights and on Christmas Day and New Year Eve.

Table 11 State/Territory capital city taxi fare structures as at 31 December 2013

2013 YEAR	NSW	VIC	QLD	SA	WA	TAS	ACT*	NT	AUST
Flagfall T1	\$3.50	\$3.20	\$2.90	\$3.70	\$4.10	\$3.60	\$4.85	\$4.20	\$3.45
Flagfall T2	\$6.00	\$3.20	\$4.30	\$4.90	\$6.00	\$3.60	\$4.85	\$5.00	\$4.86
Flagfall T3			\$6.30	\$4.70	\$6.00		\$3.60		
Flagfall T4				\$6.40			\$3.60		
Rate/km T1	\$2.14	\$1.62	\$2.14	\$1.84	\$1.69	\$1.94	\$1.99	\$1.49	\$1.92
Rate/km T2	\$2.57	\$1.94	\$2.14	\$2.03	\$1.69	\$2.32	\$2.29	\$1.83	\$2.18
Rate/km T3	(City)	(Metro)	\$2.14	\$2.40	\$2.51	(Metro)	\$1.49		
Rate/km T4				\$2.63			\$1.72		
Wait time / hr (\$)	\$55.30	\$34.00	\$47.40	\$39.30 / \$51.10	\$48.10	\$38.25	\$52.00	\$53.00	\$46.44
Phone Booking Surcharge	\$2.40	\$2.00	\$1.50	\$0.00	\$1.50	\$0.00	\$0.00	\$0.00	
After hours surcharge	T2 10pm-6am Sun-Mon (+ Sun & pub hols in country areas)	T2 Midnight-5am +20% on wait time & distance payable to drivers (Metro/Outer Suburban only) \$3.00 (midnight to 6 am) Country Urban zones	T1 7am-7pm Mon-Fri except pub hols, T3 midnight-5am Mon-Sun (except ANZAC Day), T2 all other times, \$2.00 added to Tariff 3	T2 7pm-6am Mon-Fri, wkends & pub hols (T3 & T4 apply when carrying 5 or more pax	T2 6pm-6am Mon-Fri, \$3.50 ultra peak surcharge: midnight to 5am Fri & Sat night, \$5.00 Xmas Day, \$5.70 NYE	T2 applies 8 pm to 6 am Mon-Fri, all day weekends & Public holidays	T2,T4 &T6 9pm-6am Mon-Fri, wkends & pub hols	T2 6pm-6am Mon-Fri wkends & pub hols	

Source: Australian Taxi Industry Association.

In country regions fares are higher primarily because of higher rates per kilometre than in the metropolitan region. Other elements of the fare are frequently the same. Whilst there are some variations between distance rates in the country regions, the flagfall and detention rates are identical across all regions, with the exception of Mid West region where the rates are slightly higher.

The structure of fares in Perth is closer to what the VTII had recommended than had previously been in place in Victoria, particularly with higher flagfall charges and a more pronounced peak, off-peak distinction, including the ultra-peak surcharge.

An average trip in Perth is said to be around 7.5Km. If a waiting time of 3 minutes is assumed and the trip is taken under tariff 1 then the comparative total trip cost under each jurisdiction would be as shown in Table 12:

Table 12 Fare comparisons 7.5km trip Australian capital cities 31 December 2013

Sydney	Melbourne	Brisbane	Adelaide	Perth	Canberra	Hobart	Darwin
\$24.71	\$19.05	\$22.82	\$19.51	\$20.58	\$22.38	\$20.06	\$18.03

Source: Australian Taxi Industry Association

Perth fares at the time of this comparison were lower than Sydney, Brisbane and Canberra, but higher than Melbourne⁵⁶, Adelaide, Hobart and Darwin.

The maximum charges set are the same for all rides within the designated time periods. Discounting is possible, but seems to occur on a very limited scale, a possible consequence of restricted licensing numbers. Swan Taxis, the major taxi dispatch service, advertises fares which are identical to the maximums set by the DoT, with a couple of exceptions. The company does not advertise a \$2.00 airport surcharge and it charges slightly lower rates for weddings. It is not clear why maximum charges should be set for services provided for weddings and funerals given that these fares could always be negotiated. Individual drivers can presumably discount fares by charging less than was on the meter, but tend not to.

It is difficult to achieve flexibility in fare setting when there is a uniform maximum price set. The option of charging some customers higher fares for superior service or quality is precluded as are options of extending time of day pricing beyond that specifically built into the maximum price structure. The tendency is to require taxi operators to provide a uniformly high service and quality at the given maximum fares. An interesting example in this regard was the move by Swan Taxis to introduce an ‘advanced confirmed booking fee’ of \$7.50, on top of the usual booking fee of \$1.50 for bookings made 24 hours ahead. This was reported to have been approved by the

⁵⁶ Following the adjustment to fares in Victoria in June 2014, the new figure for Melbourne would be \$20.05.

Minister⁵⁷. The idea was to increase, not guarantee, the likelihood that a driver would arrive on time, thereby implying an improved level of service.

This raises a more general concern that taxi booking companies may not be subject to the guarantee provisions of the Australian Consumer Law (ACL) and so can avoid the consequences of not fulfilling bookings that they take. Under the Australian Consumer Law suppliers are required to provide guarantees to their customers that their services are rendered with due care and skill, are reasonably fit for their identified purpose, and are supplied within a reasonable time. These provisions ought to apply to TDSs, which take bookings for a particular time, but legally the contract for service is not with the booking company but between the driver and the passenger. The introduction of a guaranteed booking service for all customers was seen as a high priority in the Strategic Plan of the TIB, but it was noted the issue was with the DoT to progress⁵⁸. One option may be to specifically legislate the ACL guarantee provisions to apply to TDSs.

Taxi fare regulation is considered by many to be justified on the basis that taxi operators may have market power which can be used to charge exploitative prices to consumers. It is generally conceded that this market power may be temporary and situational and more likely to be associated with rank and hail work than with pre-booked work where customers have more ability to compare options available to them. SCVs and PTs, which are restricted to pre-booked work, are not subject to maximum fare controls for this reason. Removing fare regulation of pre-booked taxi services then would seem to be a possible option for the Government to consider as a way of enhancing pricing flexibility and encouraging innovation.

It is interesting, in this regard, that the proportion of pre-booked work in country regions appears to be much higher than it is in the Perth metropolitan region. Also in country regions operators have much more incentive to maintain their reputations for fair and efficient practices due to the closeness of these communities. The need for regulation of fares in these circumstances is weaker. A lighter-handed way to provide some assurance as to pricing in country regions would be to require operators to notify the regulator in advance of fare changes and make fares very transparent to the public. A key safeguard against excessive pricing would be to ease entry restrictions at the same time.

The case for regulating taxi fares is no doubt strengthened when restrictive licensing limits the number of existing competitors and new entrants. With reduced competition there would be greater scope for operators to increase fares. Some have suggested then that if licence number restrictions are removed, fare controls could also be removed. Whilst this would work in non-metropolitan regions, in the metropolitan region, the continuing existence of market power in the rank and hail industry segment, even if some steps could be made to re-configure ranks to facilitate

⁵⁷ Gareth Parker, "\$9 fee for taxi to arrive on time", *The West Australian*, 8 June 2013.

⁵⁸ Taxi Industry Board, *Strategic Plan 2009-14*, 29 October 2009 (amended September 2011), p.5.

customers being able to make choices more effectively, mitigates this. Further, if licensing restrictions were relaxed it is crucial that fare controls work to eliminate from fares the licence value amount, that is, maximum fares should be reduced as licence values decline. If this does not occur, margins will increase and attract more operators into the industry. Also as more operators enter the industry there may be short term problems with reduced vehicle utilisation, which will add to pressures to increase fares. There is, therefore a strong case to maintain fare controls over rank and hail work, at least until the short-term adjustments associated with removing licence number restrictions are worked through.

The politicisation of fare setting in WA seems inevitable, even though the Director-General may have the formal power to determine maximum fares. New fare approvals are generally announced by Ministers and, as the example relating to the Swan Taxis advanced confirmed booking fee indicates, Ministers involve themselves in the outcomes. Ministers are likely to be lobbied heavily to keep fares above their efficient levels so that licence holders do not incur losses through reductions in the value of their licences.

On the assumption that fares are inflated by around the 16% that sub-lease fees represent of total costs in the PwC cost model, taxis users in the metropolitan area are paying an extra \$3.30 for an average trip in the Perth metropolitan area than they should be. This situation should not be allowed to persist. It is not in the interests of consumers, but also it is not in the interests of operators and drivers who do not own licences. The high price of taxi services is a major source of dissatisfaction consumers have with taxis and a major deterrent to demand for taxi services.

6.3 Service fee for electronic payments

The level of the service fee, or surcharge, charged for the use of electronic payments in taxis has not been subject to the maximum fare regulation discussed above and to date has been unregulated. However, this fee, which has been set at 10% for many years, increases the cost of using taxis significantly. Assuming 40%-50% of payments are made by electronic card, it is likely that taxi users in Perth pay around \$10m a year in electronic payment service fees.

The evidence given to the VTII was that a large portion of the 10% was paid as incentives to networks and operators and drivers, and the 10% was well in excess of the resource costs involved in the provision of the card and processing facilities. Consumers were being charged more than their fair share of the total costs of these services because of their inelastic demand and the absence of competitive alternatives, with Cabcharge being the dominant player. This dominance had been reinforced by it being able to provide virtually all taxis with its EFTPOS terminals and through its control of payments processing, assisted by its strong vertical links with major dispatch services or networks throughout the country.

The VTII noted the recent development of smart phone applications, which included payment options which effectively by-passed the need for cards and their associated

processing systems. It also considered the potential for Reserve Bank of Australia regulatory reforms to effect change to the system. The latter, however, did not cover Cabcharge and other taxi specific taxi industry electronic payment processors directly, and it was not clear that the card schemes would act to limit the 10% surcharge levied on their cards in the taxi industry.

The concern was, therefore, that the 10% service fees would likely remain entrenched for some time to come. To address this concern the VTII recommended that the service fee for electronic payments be regulated and that this fee be set at a maximum of 5%, subject to a further evaluation by the ESC. The Victorian Government implemented this recommendation in early 2014 and NSW is set to follow in December 2014. It is understood that WA has also indicated an intention to move in this direction, but there has been no announcement as to when.

6.4 Driver issues

Drivers are critical to achieving improved service performance in the taxi industry and, as previously outlined, steps have been taken in recent years to ensure those moving into the industry are of good character and are well trained and that enforcement of acceptable standards is more effective than it had been in the past. By themselves, however, these measures are not likely to be enough. What is important to recognise here is the framework within which drivers operate and the incentives which derive from that.

On the whole, bailee drivers have a weak bargaining position relative to licence holders. This, in part, derives from the restricted licensing system which reduces the options available to drivers. In normal times there are many more drivers seeking work than there are licence holders seeking drivers. Licence owners being keen to maximise their investment returns seek to push up lease rates as much as they can and operators of taxis seek to meet these costs by reducing other costs as much as possible, including driver costs.

The Government has sought to protect drivers by limiting the amount that drivers can be charged for a shift, but strong anecdotal evidence given to the Review suggests that these controls are easily got around. As a result the net hourly remuneration for bailee drivers tends to be very low. Bailee drivers are under pressure to increase the number of profitable jobs they do and to increase their hours to boost their overall incomes. The recent introduction of Fatigue Guidelines is a useful measure in one sense, but in another sense, it is also just dealing with symptom of the fundamental problem.

The ERA recommended the Fatigue Guidelines be made mandatory. Having a simple set of rules here may be appropriate, however, this would need formal consideration and the experience of other jurisdictions would need to be considered. TDSs should be able play an active role in the enforcement of fatigue standards.

In the longer term, steps need to be taken to replace the bailment arrangements with a fairer system of employment for drivers, which also maintains appropriate incentives for high levels of service. This may be achieved through formal contracting or employment arrangements under legislation, which can be enforced in the normal ways. As there are likely to be significant cost implications here, the ideal time to consider real change is when reforms to restrictive licensing are being contemplated. Restrictive licensing has brought benefits for licence holders, but costs for both consumers and drivers.

Under current arrangements some drivers have been able to avoid some of the costs of the restrictive licensing system by acquiring Government lease plates at lower prices than existing privately-owned leased plates. Again, this is beneficial in one respect, but it fails to deal with the fundamental problem of the restrictive licensing system, and it is a benefit only shared by a few drivers, not all drivers. What is needed is reform that benefits all drivers and as well as consumers.

6.5 Removing quantitative restrictions on licensing

Having discussed the operation of quantitative restrictions on licensing in Perth and related fare setting and driver issues, it is appropriate to summarise briefly the argument for removing these restrictions.

First, it is clear that administrative attempts to second guess the market need for licences have failed over time. Having failed to issue any new licences for many years, there was an uplift in the release of new licences between 2004 and 2008, before a more recent slowdown. However, user concerns about the availability of taxis continue to be reflected in survey results, and shortages have been particularly evident at peak hours and at outer suburban areas. The limitation on licences underpins on-going problems of taxis failing to pick up passengers and honour bookings.

Restrictions on licence numbers have allowed fares to be set at higher levels than otherwise. A secondary market in plates has been created and investors have been able to capture the economic rents arising from this. Licences have acquired substantial value, around \$290,000 currently, for conventional licences. This value has steadily risen over the last decade despite the belated release of new licences. The focus on maintaining and increasing licence values has reduced the focus on customer service. The fare setting methodology has locked into fares the lease value of licences, so that consumers are paying an estimated \$3.30 on an average trip just to meet the cost of the licence.

The reduced availability of taxis and the higher fares that result from licence number restrictions has reduced demand for taxi services. Reduced availability causes longer waiting times, which research has shown has a negative effect on demand. Higher prices have encouraged more price sensitive customers to look for other alternatives.

Licence restrictions and high licence values are inevitably discriminatory in impact and have made it harder for new innovative operators to get into the industry.

The move to leasing licences by the Government has made it possible for some established drivers to obtain lower priced plates, but this opportunity has not been available for all. Anecdotal evidence suggests that controls on lease and shift prices are widely evaded and this is exactly what would be expected with licence number restrictions causing excess demand for licences. The pressures imposed by licence holders and operators to reduce costs ensures that bailee drivers continue to earn low hourly rates of remuneration and drive vehicles that are not as safe as they should be.

Restricted licensing and the associated high licence values underpin much other restrictive regulation affecting taxis and other small commercial vehicles. This includes restrictions on when and where some licences can be used, on how many hours vehicles have to be driven and on the number of licences that can be owned. Restrictions imposed on SCVs, including on the type of vehicle and minimum fares, impose a major limitation on competition. Most of these restrictions have no relationship to market failure considerations at all, which might otherwise give them some validity from an economic welfare perspective.

The net effect of the restrictions on licence numbers is to cause significant welfare losses to the community. Consumers and most drivers are worse off while licence holders who have held their licences for some years are the major beneficiaries. In overall terms, as the ERA has assessed, the community is worse off.

7 Other taxi mobility issues: safety, wheelchair accessibility and sustainability

7.1 Safety

Safety considerations provide the major rationale for specific taxi industry regulation. Safety considerations are paramount in relation to the regulations affecting vehicles, drivers and the interactions between drivers and passengers. The industry is a high risk one for drivers⁵⁹. Most passengers have a better experience, but many are affected by reports of particular incidents, and women especially are often uneasy about catching taxis alone at night. This should be a major concern of the taxi industry, not just of the Government and the regulator.

In recognition of the existence of safety concerns, the Government has in recent years taken a number of initiatives under the banner of the Taxi Action Plan to improve safety. These initiatives include:

- Introducing mobile security patrols to support drivers working late at night
- Introducing a voluntary taxi identification sticker
- Introducing an improved driver identification system
- Introducing new upgraded security camera standards and cameras for metropolitan taxis, including two internal and two external cameras and audio
- Developing a taxi rank strategy and establishing secure ranks at key places like Northbridge
- Other measures, including the introduction of new standards for drivers, a penalty points system for drivers and expanded compliance and enforcement capacity also have significant implications for passenger safety in particular.

Taxis have generally had stricter safety requirements than have SCVs or PTs. This reflects differences between rank and hail and pre-booked work and the fact that taxis are on the road more at night when safety concerns are greater.

The general approach in relation to safety measures has been ad hoc and reactive. Detailed assessments of the different options available to improve safety have not always been completed. Improvements to safety have costs and these costs need to be considered alongside the benefits achieved. As noted by the VTII, “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

⁵⁹ Three studies in other states have examined the issue of violence against taxi drivers. Each found that drivers were at significant risk of verbal abuse, threats, assaults and homicide. These risks are much higher than for most other industries. Duncan Chappell and Vittorio Di Martino, *Violence at Work*, Third Edition, International Labor Office, Geneva, 2005, p. 75.

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”⁶⁰.

The VTII also stressed the importance of safety regulation being outcome focused as much as possible, rather than prescriptive as to how outcomes are to be achieved. It noted, for example, that 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”⁶¹.

7.1.1 Purpose Built Taxis

Most vehicles used in Perth (and elsewhere in Australia) have not been specifically designed as taxis. They are conventional vehicles with equipment such as dome lights, computer booking system, EFTPOS terminals, GPS, meters, security cameras and livery added. Spare parts and servicing are readily available for most of these vehicles at relatively low cost. These vehicles are not always as customer friendly as they could be in terms of available room, comfort and capacity to carry luggage. Importantly also, although screens around the driver can be fitted, these vehicles do not have a formal separation between the driver and the passengers. This creates the potential for problems to arise in interactions between them.

The failure of licence holders to ensure a clear separation between driver and passengers might reasonably be considered to be a failure to provide a safe workplace for drivers, given the well documented history of violence taxi drivers have experienced. However, occupational health and safety authorities, in the past at least, took the view that they would judge what is safe in this regard by what existing industry practice happened to be⁶².

PBTs have operated in London and the UK for many years. These vehicles are now being used also in many other countries. The New York Taxi Commission has conducted a competition in recent years for a new PBT suitable for New York. A move in Australia to introduce suitable purpose built taxis seems overdue. Encouragement for their introduction was given by the VTII, but Perth is the first city in Australia to take any real steps in this direction. A trial of 98 purpose built vehicles has been initiated by the DoT. Those participating in the trial have entered a 5 year

⁶⁰ Victoria, Taxi Industry Inquiry, Draft Report, p. 400.

⁶¹ Ibid., p.401.

⁶² In response to a question in Parliament about what constitutes a safe workplace in relation to taxis the then Minister for Transport the Hon. E. J. Charlton advised that “Worksafe said that it would not prescribe what constitutes a safe workplace. It requires the taxi industry to determine this, based on industry specific knowledge and the principles of safe workplaces”. W.A. Hansard, Legislative Council, 26 March 1997.

PBT lease agreement with the Department, the trial running over the first 4 years. The main obligations of licensee participants are to keep records of vehicle costs of operation, report these monthly and drive the vehicle themselves a minimum of 36 hours/week. In return lease fees are reduced to a nominal amount of \$1 per year. In the final year the normal lease fees apply, currently \$2,600 per quarter.

The London Taxi Company TX4 vehicles being used in the trial have been modified in a number of ways to be more suitable to the hotter climate in Australia. The vehicles are required to comply with Australian Design Rules, except if an exemption is granted. The RAC has expressed concerns⁶³ about certain aspects of the safety of these vehicles and these concerns need to be addressed if more of the vehicles are to be used⁶⁴. The London cabs are able to carry passengers in smaller wheelchairs, but so far the trial has not permitted them to do so. If the vehicles are to realise their full potential, it is important that this issue also be addressed.

7.1.2 Child restraints in Taxis

Empirical evidence indicates that children who are restrained in a vehicle are better protected in a crash than are children without restraint; and children using adult seatbelts are at significantly greater risk of serious injury than are children using size appropriate restraints⁶⁵.

New laws came into effect in October 2010 requiring that:

- Children up to the age of six months must be secured in a rearward facing restraint
- Children aged between six months and four years must be secured in either a rear or forward facing restraint
- Children aged between four years and seven years must be secured in a forward facing restraint or booster seat
- Children up to the age of four years cannot travel in the front seat of a vehicle with two or more rows
- Children aged between four years and seven years cannot travel in the front seat of a vehicle with two or more rows, unless all other back seats are occupied by children younger than seven years in a child restraint or booster seat

⁶³ RAC, Media release, “Risky Cabs in the Ranks”, 2 December 2013.

⁶⁴ It has been reported that 95% of London cab passengers say they would book on of these cabs again and 75% say they will wait longer for one of these cabs than a conventional sedan. A similar trial to that in Perth has now also commenced in Melbourne. Kirstan Ross.” London Taxi Starts Melbourne Trial”, Herald Sun 13 August 2014.

⁶⁵ National Transport Commission, Australian Road Rules Amendments, 7th. Amendment Package 2007, Regulatory impact Statement, November 2007.

- Children aged between seven years old and 16 years old must use a booster seat if they are too small to be restrained by a seatbelt properly adjusted and fastened

Taxis drivers are exempt from most of these requirements. In particular, they are exempt from ensuring children aged 0-7 are restrained, this is the responsibility of the parent or guardian; and do not have to carry an approved child restraint, but must have at least one anchor fitting in the vehicle for passengers to use. Drivers have discretion whether or not to use a restraint provided by a passenger.

The reasons for the exemptions mainly relate to the difficulties and costs associated with carrying and fitting restraints. There also seems to be an unwillingness to accept responsibilities that drivers of all other cars have to accept. The industry should be able to make suitable arrangements to ensure these important safety regulations are fully complied with and drivers should not be able to refuse use of an approved restraint provided by a passenger.

7.2 Wheelchair accessibility

MTPs are specially equipped to provide transport services for people who have disabilities or mobility difficulties. MPTs accounted for only 5% of all licences in Perth as at 1 July 2013, less than one-half of the percentage in Melbourne⁶⁶. Because of their particular design features and specifications, MPTs are more costly to put on the road and more expensive to operate than are conventional taxis. Prescriptive regulatory requirements add to these costs, for example the requirement that MPTs be able to carry a minimum of two hirers seated in their wheelchairs. However, the maximum fares applying to ordinary and MPT vehicles are the same. Higher Tariff 3 rates apply where there are more than 5 passengers and this gives an incentive to MPT operators to seek these jobs.

MPT licences were subject to a buyback scheme in 2007-08 under which 54 licences were converted from being privately owned to government leases. Stringent operating conditions apply to these leased licences. The vehicles have to be operational for at least 72 hours/week, every week, including peak hours and special days; must operate through a government appointed Co-ordinator; operate when rostered on; complete at least 60 wheelchair jobs a month; give priority to wheelchair jobs; notify the Co-ordinator at least 30 minutes in advance of any private bookings; not lease or sub-lease the plates and adhere to maximum rates set for leasing the plate and vehicle. The principal driver also has to drive the vehicle for at least 50% of its required hours of operation.

MPTs can be operated until they are 10 years old (two years longer than ordinary vehicles) and subsidies have been paid to operators to also help meet the higher

⁶⁶ Currently there are 497 licences Wheelchair Accessible Taxis and 4,463 licences in total in Melbourne.

capital and operating costs MPT operators incur. These subsidies, which were significantly increased in 2007, include a \$15,000 vehicle modification grant, half-price MPT plate lease fees for new entrants (a saving of \$1,300/quarter) and lifting fees (of \$12 for jobs booked through a TDS and \$10 if booked through private arrangements) for jobs undertaken through the TUSS. This scheme provides subsidised taxi travel for people who have a severe and permanent disability. A 50% subsidy applies up to a maximum of \$25 for a single trip in most cases although those requiring a wheelchair or scooter may be entitled to a 75% subsidy, up to a maximum of \$35 for a single trip. There is no overall yearly cap on expenditure for members of the scheme.

Most people (around 90% of jobs) using MPTs book directly with their drivers and not through the appointed Co-ordinators. The key reasons for this are the greater reliability of personal bookings and the identification of a driver the passenger has confidence in. The two main TDSs have now been appointed Co-ordinators by the Government. Previously, Black & White alone performed this role. Whilst the performance of the TDSs is closely monitored, the standards attained for MPTs fall significantly below those attained for conventional taxis, as highlighted in the table below, which reports the latest quarterly performance data.

Table 13 Comparative booking performance Perth Conventional and Wheelchair Accessible Taxis, April-June 2014

Booking	Period	Target time	Target % Jobs	Actual Conventional	Actual WAT
Pre-booked	Peak	5 min.	85%	84.3%	63.7%
Pre-booked	Off-peak	5 min.	90%	87.5%	60.3%
ASAP	Peak	20 min.	90%	96.8%	67.2%
ASAP	Off-peak	15 min.	90%	92.3%	50.3%

Source: Department of Transport, Taxi Industry Service Standards, April-June 2014.

Various initiatives have been taken to try to improve MPT performance, including seeking the assistance of consultants⁶⁷, introducing lifting fees, releasing more plates, operating a stand-by vehicle to prevent unacceptable delays, operating a cadetship program for training new drivers and trialling a higher night time lifting fee.

Some steps have been taken already to address issues highlighted in the Forum organised by the TIB. However there are other issues not yet addressed, including possibly matters raised by the survey responses, which need to be followed up on.

In particular, steps need to be taken to enhance the confidence of passengers with disabilities in the reliability of the booking services. People should not have to rely on making their own personal links with drivers. Particular drivers may not always be available and some people may not be able to make these links as readily as others. There has to be an effective general booking system.

It seems that the TDSs are not prepared to exercise their power to ensure bookings are guaranteed and response times are reasonable. In these circumstances the compulsory requirement for operators to have to belong to them seems questionable. The Government should consider alternative arrangements. The most efficient outcome, given the small size of the market, would be to just have one booking service operated by the Government, possibly through an out-sourced contract. It does not have to be operated by an existing TDS. There are other organisations, including within the disability sector, which could possibly perform this task efficiently.

Further steps could be taken to ensure there is better availability of vehicles for passengers with a disability. PBTs are able to carry all but the largest wheelchairs and more of these vehicles are needed. Substantial reductions in licence lease fees could be given more generally and on an on-going basis for appropriate PBTs. This would enhance the viability of operators and attract more interest in entering this segment of the industry. There may also be other ways, including through fare adjustments, by which this objective could be achieved.

The VTII considered the issues affecting wheelchair accessible services in depth and there may be other matters arising from this Inquiry that also have resonance in WA. For example, one issue concerned the incentive effects of Tariff 3 on drivers. The Inquiry recommended that a flat fee be introduced to remove the impact of the high distance charge, which was encouraging drivers to wait for airport work rather than making them available for wheelchair work.

⁶⁷ Market Equity, MPT Industry Issues, Qualitative Research with Drivers and Owner-Divers, August 2005.

7.3 Sustainability

Sustainable production and consumption at the broadest level involves meeting the needs of the present generation without compromising the ability of future generations to meet their needs. In the context of this taxi industry review, it particularly involves the provision of transport services which respond to basic needs and brings a better quality of life to passengers while minimising the use of resources and emissions of waste and pollutants involved over the life cycle of the provision of the services.⁶⁸

The imperative of achieving sustainable production and consumption has been increasingly recognised across the globe. It requires commitment from industry, consumers and governments to specific initiatives that advance these broad objectives.

Taxis and other small commercial passenger vehicles comprise only 0.1% of the vehicles on the roads in WA, although, given the constancy of their use, their impact is potentially greater than this proportion might suggest⁶⁹. Taxis are also highly visible on the roads and the adoption of sustainability principles in relation to them may provide an important demonstration effect for the rest of the community.

Key measures involving the taxi industry that could be undertaken to enhance sustainability include:

- Expand the use of taxis as a substitute for less fuel efficient and more polluting private vehicles or public transport. For example, it may be more efficient to allow taxis to run fixed route services where there are only relatively small numbers of passengers rather than use much larger buses.
- Ensure taxis operate with maximum efficiency. A range of measures may be taken to minimise dead running time and maximise vehicle utilisation. These may include, for example, improved communications with vehicles, changes to dispatch arrangements, improvements to taxi ranks, greater access to bus lanes, better (green) driving practices and greater use of multiple-hiring arrangements.
- Utilise vehicles that have high fuel efficiency and economy and low carbon and other emissions. The transport sector as a whole accounts for a significant proportion of greenhouse gas emissions in WA and most of this comes from road transport.

As a general rule, it might be assumed that taxi operators would look to utilise vehicles which have good fuel economy and lasting qualities since this would help to minimise their costs of their operation. Hence, private action could be expected to help promote sustainability. However, this argument assumes that operators are fully

⁶⁸ Norwegian Ministry of Environment, Oslo Roundtable on Sustainable Consumption, 1994.

⁶⁹ There were 2,573 taxis and 2,142,307 motor vehicles. Australian Bureau of Statistics, Motor vehicle Census 9309.0; Australian taxi Industry Association.

aware of the characteristics of the different vehicles available to them and that timing issues do not distort their decision making. For example, an operator may purchase a less fuel efficient vehicle because the initial capital cost of this is lower than the alternatives and this may be all that the operator can afford at the time.

There may be a case for the Government/regulator to provide information and guidance on the available choices of vehicles to assist operators in their choices.

Some costs of vehicle operation are not incurred by the operators of the vehicles concerned. Carbon emissions impose a cost on the community which do not have to be paid for by operators, so more emissions will be produced than is socially desirable. Government intervention may be appropriate in these instances to modify private decision making to achieve better social outcomes.

Governments in WA have provided limited encouragement and assistance to operators to utilise vehicles with better sustainability characteristics. In 2007, a scheme was announced to provide 15 grants to assist conventional licence holders move to greener taxis. This involved a \$15,000 capital grant and a reduction in weekly lease fees from \$250 to \$200 to purchase taxis which meet the fuel efficiency and emission standards of petro-electric hybrid cars. The scheme was later also extended to include private plate owners. Vehicles, which have an overall 5-star rating in the Australian Government Green Vehicle Guide can also be licensed under the SCV category without having to meet the luxury car tax threshold. There are currently only 18 of these cars licensed.

The great majority of taxis in the metropolitan region have been converted to use LPG as it is cheaper, over a period of time, to run than other fuels. It also has lower carbon emissions than petrol or diesel. Around one-half of the diesel vehicles in the metropolitan region would be the London cabs currently on trial. Table 14 below provides further details of fuel used in metropolitan and country taxis in WA.

Table 14 Fuel used in Metropolitan and Country Taxis (Number of taxis)

Taxi/Fuel	LPG	Hybrid	Diesel	Petrol
Metropolitan	1,486	391	196	183
Country	80	12	79	179

Source: Department of Transport

Ford Falcons and Toyota Camry are the most popular sedans and Toyota Hi-Ace is the most common MPT vehicle used. Other taxi fleets in Australia, for example the Gold Coast and Cairns in Queensland, have more fully embraced hybrid vehicles. In overseas countries there is also a growing use of electric vehicles which may have future application in Australia.

To date regulators in Australia have not seen fit to mandate any particular fuel source or fuel efficiency requirement for taxis. This is an option that could be considered if an industry-wide change of practice was thought to be desirable.

Sustainability considerations should be reflected in the on-going management of the taxi industry, but the costs and benefits of specific measures also need to be carefully considered. There is a danger that inappropriate policies may be sought to be justified on sustainability grounds. For example, arbitrary restrictions on licence numbers could be supported as a way of enhancing existing vehicle utilisation and reducing congestion problems. Assuming these were appropriate objectives, consideration would need to be given to how they could be best achieved and to make sure the benefits of doing so exceeded the costs involved. In general, it is desirable that there be a clear policy position articulated on sustainability and its implications for the taxi industry.

8 The pre-booked market

8.1 Taxis and SCVs

Taxis provide pre-booked services as well as rank and hail services for customers. SCVs and PTs also provide pre-booked services, but are not permitted to provide rank and hail services. There is a strong economic rationale for ensuring that the providers of each of these services have minimum levels of competence and are appropriate persons to be driving. Passengers are generally not in a position to be able to assess these things themselves in advance of getting in the vehicle. This information asymmetry problem also relates to the vehicles that are driven. These too need to meet minimum standards to ensure adequate safety for passengers. The passengers themselves cannot be expected to be able to assess the mechanical and safety standards of the available vehicles, but they can be expected to be able to assess other less technical aspects affecting things like vehicle quality, comfort and cleanliness.

Where similar services are provided to customers by different firms, it is desirable that there be consistency in the regulation that applies to them. However, the case for regulation in relation to rank and hail work is stronger than in relation to pre-booked work. The opportunities passengers have for assessing the quality of the drivers and vehicles is less with rank and hail services. Taxis provide more rank and hail services late at night and in risky environments. The case for fare regulation due to restrictions on fare competition and restrictions on the number of licences issued is also greater with respect to rank and hail work than it is with pre-booked work. When regulation has been removed, it is in the rank and hail market segments where most problems have been experienced, for example congestion and over-ranking and emissions associated with cruising taxis.

Given these different regulatory needs there is a case for clearly separating the provision of rank and hail work from pre-booked work, and in some large cities such as New York and London this is done. Taxis have only provided rank and hail services in these cities. However, in Perth and most other cities, the multi-tier approach applies with taxis operating in both segments and hire cars just providing pre-booked services. The current differences in driver licensing requirements between taxis and SCV vehicles implicitly recognise that it is appropriate to treat the segments differently.

The difficulty that arises then is that the regulatory imposts imposed on taxis can significantly increase their costs of operation. This leaves them vulnerable to being undercut in their pricing by the specialist providers of pre-booked services. Legislators and regulators have dealt with this issue by trying to separate taxis and pre-booked service providers by imposing restrictions on the latter that mean that they could not easily compete with taxis. This is done in WA particularly by requiring pre-

booked service providers to use luxury vehicles⁷⁰, and by specifying that a high minimum price has to be charged for their services. An earlier attempt to also raise licensing fees significantly for SCV vehicles was not agreed to and, importantly, there is today no formal restriction placed on the number of licences issued for specialist pre-booked service providers.

Some of the history and thinking behind the current regulation of SCVs in Perth was provided by the then Assistant Minister during a Parliamentary debate on the issue of SCV fees as follows:

“SCVs were first introduced in 1995, and replaced a small number of licensed private taxis. The move was planned to provide greater choice of luxury-type vehicles and to introduce a licensing system for wedding car operators. It was always intended that a clear distinction between the traditional taxi business and the services operated by operators of luxury-type vehicles, such as limousines would be maintained. One of the key reasons for this is that entry into the SCV industry is unrestricted- there are no plate fees. This is in comparison with the taxi industry, in which the numbers are limited and there is a substantial fee. The fee for a taxi plate is currently \$190,000. That fee entitles the taxi industry to provide a 24 hour service at any location. Taxis provide a day to day service and can be hailed at any time. In contrast small charter vehicle operators do not pay a plate fee and work in a different market. Regrettably, the former government did not set up any vehicle standards to define the SCV industry. This has resulted in almost any sort of vehicle being used with SCV plates from Ford Escorts to aging Holden commodores and Ford Falcons. These are hardly luxury- type vehicles. Added to this is the increasing number of reports we are receiving that some SCV operators are cutting their charges well below the regulated fees and competing directly with the taxi industry. This is certainly not acceptable and we do not believe it was the intention when SCVs were introduced. Yet, the Government inherited this situation and as promised in its election platform, it is taking action to address the problems that have been identified. This Government came to power with a commitment to place a moratorium on the granting of any further small charter vehicle licences until a proper assessment of the impact on the taxi was made and it could be assured that operators of small charter vehicles would abide by their licence conditions. Following the Governments election it introduced a moratorium on small charter vehicles and this has been in place since March 2001. Since then, it has been carrying out extensive consultations with key stakeholders and reviewing the SCV industry”⁷¹.

Removal of quantitative restrictions on taxi licences will mean that the additional costs taxis incur as a result of their licensing will be reduced and the case for keeping taxis separated from SCVs will be significantly weakened, but not eliminated if a high

⁷⁰ There has been some relaxation of this in recent time by also allowing green vehicles to be used as SCVs.

⁷¹ Mrs. Michelle Roberts, Minister Assisting the Minister for Planning and Infrastructure, WA Hansard, Legislative Assembly, Small Charter Vehicle Owners, Licence Fees, 10 April 2002, p. 5.

government lease price is maintained. But, assuming there is a valid case to keep these parts of the industry separated, the key issue is how to do this in a way which minimises the costs to the community. The current approach certainly should be reassessed in this regard. It unnecessarily distorts market price signals, raises prices and denies consumers choice of vehicle types. It is suggested that minimum pricing and luxury vehicle restrictions could be abandoned and replaced by a significantly higher annual licence fee.

Reform in this area should also seriously consider removing the maximum fare restraint now imposed on taxis for pre-booked work. If SCVs fares are not subject to maximum fare control, then there can be little case for applying such controls to taxis in relation to their pre-booked work. Pre- booked taxi jobs can be readily distinguished from rank and hail jobs and consumer education and information could be provided to ensure consumers understand when fares are regulated and when they are not.

Uniform maximum fare setting for taxis discourages efforts to differentiate service quality and particularly the provision of higher quality, more costly services. To accommodate some differentiation, regulators in some jurisdictions have sometimes seemed to turn a blind eye to the existence of charges for premium services or service guarantees, which arguably should be caught by the existing controls. Rather than tacitly allow for such things, it would seem better to explicitly remove pre-bookings from fare controls.

8.2 Smartphone applications

The introduction of mobile smart phone booking applications has been a significant development affecting the taxi and hire car industries in Australia and across the globe over the past 3-4 years.

Innovation has largely come from people outside the taxi industry and has been prompted to a significant extent by the high cost and inefficient practices of the taxi industry. In particular, the high (10%) surcharge/service fee for non-cash electronic payments charged by Cabcharge across Australia coupled with inflated fares arising from the need to recover high licence costs, have provided opportunities for new lower cost entrants. Dissatisfaction with other aspects of service performance, notably the unreliability of booking services, has also provided a significant opportunity for new service providers.

Gocatch and Ingogo, both established in 2011, were early developers of smart phone applications (apps.) used by taxis in Australia. Uber, the largest of many overseas app. providers entered the Sydney market in October 2012 and the Perth market in May 2014.

Smart phone applications allow customers to make bookings directly with a driver of their choice, and provide assurance regarding the time of pickup. Customers are able

to obtain details regarding their driver in advance and can track the driver's progress to meet them. Performance of the driver can be rated at the end of the journey. Where fare flexibility is permitted, customers might also benefit from a cheaper fare. Drivers also benefit from the additional jobs they obtain through smart phone applications, from having some knowledge of their customer, and from having greater certainty of payment due to the customer's credit card details having been provided in advance of the trip. Driver remuneration may also be better on jobs booked through smart phone taxi apps.

Where the new technology providers have used existing taxi and hire car drivers and vehicles to provide the transport services, relatively few new regulatory issues seem to arise. If fewer calls are dispatched by the TDS because of the use of smart phone applications, this may call into question the requirement for operators to be connected to a TDS. Not surprisingly, TDSs have responded to the introduction of smart phone applications by the technology companies by themselves introducing these applications.

Experience indicates, however, that the new technology providers often have problems accepting the appropriateness of existing regulation which they consider impedes the introduction of their new business models. For example, innovative pricing practices, such as dynamic or surge pricing have run up against the barrier of set maximum fares. Even charging lower fares may constitute a breach of existing regulation. The key question that needs to be considered here is what is the rationale for the existing regulation and is it appropriate that it be maintained in the face of what appears to be desirable innovation.

New technology companies have a strong market reputation incentive to ensure that the drivers and vehicles they use are of good quality. They undertake their own checking of drivers and vehicles. They also have safeguards built into their apps, which allow passengers to check on their driver, and drivers can be rated by the passengers after the trip. As a result, it is sometimes suggested that these checks are sufficient to obviate the need for the formal licensing requirements attached to taxi or hire car licences.

The issues here are what minimum standards are necessary to have in place for drivers and vehicles and can business self-regulation be relied upon to ensure their appropriate enforcement. The minimum standards currently in place for taxi and SCV drivers (the T and F licence extensions) and vehicles (the standards and inspection regimes) seem appropriate to the rank and hail and pre-booked segments of the industry respectively. If business was allowed to determine the standards to apply and to enforce them there would be no guarantee of consistency or continuity between firms as to their actual standards. Community confidence is likely to be undermined by this. Realistically, the Government must continue to have a significant role in the setting and the enforcement of safety standards.

The existing law, which is archaic, requires that commercial ride sharing scheme drivers and their vehicles be licenced under the all-embracing Omnibus licence, or

alternatively a taxi licence⁷². The SCV category seems the most likely existing category of the Omnibus licence to apply to these services. Some conditions attached to SCV licences would, however, in all likelihood discourage licence applications. These conditions especially concern the use of luxury vehicles and minimum pricing. Ride sharing may be attractive because it has the potential to provide cheaper services and this may be facilitated in part by allowing non-premium vehicles to be used. Minimum pricing could prevent the benefits of cheaper services being passed on to consumers.

There are significant potential community benefits to be obtained also by the increased use of ride sharing. In particular, ride sharing has the potential to enhance the efficiency of transport services overall by increasing vehicle utilisation at low cost and by reducing congestion and vehicle emissions. Regulation should not lightly inhibit the development of innovative ride sharing services.

Previously it was argued that as part of a broader reform program for taxis, regulatory restrictions affecting pre-booking services could be removed, including fare controls and luxury car requirements. If this were done, there would be no real case for commercial ride sharing providers not to have to obtain an Omnibus/SCV licence.

Because there are no restrictions on the number of SCV licences made available in Perth, these licences have not acquired any significant market value and can be readily used by the new providers of smartphone applications. This is not the case in other jurisdictions in Australia. Even in Victoria, where Pre-Booked Only (PBO) licences are available ‘as of right’, the set price for this licence is \$40,000 in the metropolitan area. The problem of ensuring compliance with the law is therefore considerably greater in these jurisdictions than in Perth. Similarly in countries where restrictive licensing does not apply, for example Ireland, the new smart phone providers have been able to operate readily within the scope of the existing law⁷³.

⁷² Part 111 of the Transport Co-ordination Act 1966 covers the licensing of commercial vehicles. It requires that “every vehicle that is operated ... is required to be licensed under this Part.” (Section 20 (1)). The definition of operate here “means to carry, or to be responsible for arranging the carriage of, passengers or goods for hire or for any consideration, or in the course of or in connection with any trade or business whatever, and cognate expressions shall be construed accordingly.” (Section 4 (1)). An Omnibus, means “a motor vehicle used or intended to be used as a passenger vehicle to carry passengers for hire or reward, ...”(Section 4 (1)). Car-pooling arrangements are excluded from this definition “if the carriage or offer is —
(a) incidental to the main purpose of the journey; and
(b) not the result of touting for passengers by the driver or any other person on any road; and
(c) made pursuant to an arrangement for the carriage of the passengers for a consideration limited to:
(i) an undertaking by or on behalf of the passenger to carry the driver or a member of the driver’s family on a similar journey; or
(ii) the payment of an amount which does not contain any element of profit in respect of the operation of the motor vehicle or the motor vehicle pool or any recompense for the time of the driver”. (section 4 (3)-(4)).

⁷³ Sarah McCabe, “Irish taxi regulator gives Uber app. Green light”, Irish Independent, 8 September 2014

8.2.1 Recent market entrants

A great deal of recent attention has been focused on Uber, a Californian based company established in 2009, which has aggressively marketed its smart phone applications. The company is extremely well funded and it has sought to gain a first mover advantage by quickly establishing itself in many cities around the world, including Perth. The company has readily challenged existing laws where it considered it appropriate to do so. Its particular business model has varied depending on the existing regulation and the reactions of regulators. Incumbent operators have protested loudly against its activities and there have been many legal challenges launched against it by private parties and by regulators.

Uber entered the Perth market in May 2014 and has used SCV operators. It was reported that the company was not fully adhering to the regulatory requirements affecting SCVs; in particular to the requirement of a minimum fare of \$60⁷⁴. Although it may be desirable that the minimum fare be abolished, as long as it is in place it should be adhered to. There cannot be one rule for some SCV operators and not for other SCV operators. Open non-compliance without consequence would indicate weakness on the part of the regulator and the Government. It is understood that there have been no enforcement actions to date.

In October 2014, Uber X the ride sharing service commenced in Perth. The company has indicated that its drivers have the appropriate T or F extension licence and insurance cover, but it is not clear whether the individual vehicles being used have been licensed. Nor is it clear whether the minimum \$60 is being complied with. This move by Uber poses a much more serious competitive threat to existing taxi and small charter operators than the earlier apps. entrants, which mainly challenged the position of the established TDSs.

A new Australian ride sharing business, Ridesurfing, also commenced operating in Perth in October 2014. This company claims that it does not require passengers to pay a fare, but rather suggests they make a donation. This may be an attempt to try to avoid the licensing requirements of Part 111 of the Transport Co-ordination Act 1966.

8.2.2 International responses to smart phone applications and ride sharing

The International Association of Transport Regulators (IATR), whose members are largely taxi regulators in the USA, considers that the current use of smartphone applications creates public safety concerns⁷⁵. It suggests that smart phone applications raise many questions for regulators, including the following:

⁷⁴ Chenee Marrapodi, "WA State legislation no match for Uber", WA Today.com.au, 23 July 2013.

⁷⁵ Windels Marx/IATR, Model Regulations: Smartphone Application Technology for Taxicabs and Limousines, 23 September 2013.

- Is the use of a smartphone application a pre-booking or an electronic street hail?
- Are the smartphone application companies responsible for the transportation they arrange/provide?
- Are or should smartphone applications be permitted to use words like “taxi”, “taxicab” or “hack” in their names?
- What obligations, if any, do smartphone applications have to provide accessible transportation and/or not to illegally refuse requests in such jurisdictions with accessibility requirements?
- Are the fees charged through the use of smartphone applications consistent with regulations, for example can a smartphone application require a passenger to pay a gratuity and/or can a limousine/executive sedan use a meter?
- Is a smartphone a taximeter, or is its use permitted in taxicabs in lieu of a taximeter?

The IATR’s own response to these questions indicates a strong desire to maintain the status quo as far as regulation of the industry is concerned and in doing so protect taxis from the competition provided by the new technology companies. It considers

“(a) The use of a smartphone application is an electronic hail (“e hail”) and if the request for transportation is intended to be for immediate or on-demand transportation service, the request is considered “Demand Response Booking”, which shall only be used for the dispatching of a taxicab; (b) Although there may be some different approaches by regulators, smartphone applications will be obliged to obtain dispatch licences if such applications do not provide the transportation themselves, and they must contract with licensed third parties to provide transportation services; (c) Smartphone applications may use the word or words “taxi”. “taxicab”, “cab”, or “hack” if they are licensed as a dispatch business and affiliated with – and dispatch only- taxicabs; (d) As dispatch businesses, if the jurisdiction has accessibility dispatch requirements, smartphone applications will be obliged to affiliate with a sufficient number of accessible vehicles and be liable for service denials and/or discrimination; (e) As dispatch businesses, smartphone applications may not charge any fees, cost or expenses to the passenger (or payor) and shall not permit its affiliated drivers to charge any fees, costs or expenses in excess of either (i) the fare displayed on the meter or taximeter, as applicable or (ii) the flat fare prearranged or (iii) the hourly rate for the service provided; and (f) A smart phone application may not act in lieu of a taximeter or meter until it receives approval based on NIST (National Institute of Standards and Technology) Handbook 44 .. requirements and such other regulatory approvals, as applicable. In any event, there shall only be one taximeter or meter in

any taxicab, and no taximeter or meter shall be permitted in any limousine/executive sedan.”⁷⁶

The California Public Utilities Commission (CPUC), which is responsible for the regulation of charter vehicles, has extensively considered the regulatory issues associated with smartphone applications⁷⁷. It implicitly rejected many of the views expressed by the IATR regulators. CPUCs focus was to protect public safety while at the same time encouraging innovation and the use of new technology where it would benefit the community. Whilst some activities fitted existing licensing categories, it considered that the ride sharing activities of what it referred to as Transport Network Companies (TNCs) did not fit readily into the existing taxi or limousine regulatory framework. Although they did provide prearranged services, TNCs were distinguished by the fact that they connected passengers to drivers who drove their personal vehicle not a limousine purchased primarily as a commercial vehicle.

The CPUC determined that TNCs should be licensed⁷⁸. They should not be able to accept street hails and should not be permitted to own vehicles used in their operations. TNCs were required to maintain appropriate insurance cover, drivers had to be subject to national criminal background checks, vehicles had to pass an initial check, and there was to be a capacity for the regulator to inspect the vehicles. The insurance cover TNCs are required to provide has since then been further considered and determined by the CPUC and the Californian Legislature⁷⁹. TNCs will be required to insurance cover of around \$280,000 from the time a driver turns on the smartphone app.; an excess liability cover of \$200,000 for when a driver’s personal cover is insufficient; and \$1m cover for when the driver and the passenger.

The approach of the CPUC seems to be a sensible one. It puts in place the minimum level of regulation required to ensure the safety of passengers and drivers, whilst also allowing the new technology companies a realistic opportunity to exploit the commercial potential of their new innovations. As long as taxi markets remain heavily restricted and burdened by the cost of unproductive licence values, taxis will be severely challenged by these new companies and will no doubt continue to resist their incursions.

⁷⁶ Ibid., p.4.

⁷⁷ California Public Utilities Commission, Decision adopting rules and regulations to protect public safety while allowing new entrants to the transportation industry, Decision 13-09-045 September 19 2013; Decision Modifying Decision 13-09-045, Proposed Decision of Commissioner Peevey, 10 June 2014.

⁷⁸ Legislative change would probably be required to achieve this in Perth as the activities of Uber X do not appear to be fully covered by the definition of a taxi dispatch service in the Taxi Act.

⁷⁹ On 28 August 2014, a Bill AB2293 was passed by the Legislature mandating insurance cover similar to what the CPUC had proposed earlier in the year.

9 Experience of other jurisdictions in removing quantity restrictions on licences

The weight of informed economic opinion in Australia and overseas has been in favour of removing quantitative restrictions on the number of taxi licences issued⁸⁰. These restrictions do not have a strong economic (market failure), social or environmental rationale; they provide transitory gains for a few people but impose significant costs on others in the industry and on the community as a whole⁸¹. They distort significantly the operation of taxi markets by creating inefficiency, impeding innovation and necessitating other restrictive regulation to support their continued existence. The idea that taxi markets cannot work effectively without such restrictions is rejected. If intervention is considered desirable, however, this could be better provided in more direct, less costly ways.

Although the economic theory is reasonably clear, demonstrating the application of this in practice has sometimes been difficult because circumstances vary, policies are not appropriately coordinated or implemented, and other influences may impact on the outcomes. There are many examples of where governments have removed restrictions on licence numbers and whilst the outcomes overall have been positive, there have been some problems which opponents of these reforms have highlighted. Nevertheless, the OECD has noted that “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”⁸². More recently, the USA Federal Trade Commission, which has extensively studied these issues, has also commented that: “Studies have shown that the deregulation of taxicab services, both in the United States and other countries, has generated

⁸⁰ Removing quantitative restrictions on taxis has been supported by the OECD, World Bank, USA Federal Trade Commission, UK Office of Fair Trading, Australian Productivity Commission, Australian Trade Practices Commission and many other authorities. A contrary approach has recently come from the UK Law Commission, which took the view that the status quo, whereby local authorities in the UK could apply quantitative restrictions if there was no ‘unmet demand’, should continue to apply unless it was convinced a change would lead to an improvement. The Commission had initially proposed that quantitative restrictions should be removed, but this has led to extensive industry opposition. The Commission’s economic analysis seemed shallow and driven by the weight of submissions it received. UK, Law Commission, *Taxi and Private Hire Services*, May 2014, especially chapter 11.

⁸¹ The main beneficiaries of licence number restrictions are those licence holders who had their licences at the time the restrictions were imposed or acquired them at modest prices. Many of these people will have since capitalised their gains by selling their licences. New licence holders will have had to pay this capitalised cost to obtain their licences.

⁸² OECD, Directorate for Financial and Enterprise Affairs, *Taxi Services Regulation and Competition*, OECD, Paris, p.8

consumer benefits in most instances and has not led to significant harm to consumers or competition”⁸³.

Where problems have arisen, it is important to understand why this is the case and not necessarily jump to the conclusion that removing restrictions on numbers was the wrong thing to do.

Some of the more significant examples of where countries have removed quantitative restrictions on licence numbers in recent years include Sweden (1989), New Zealand (1989), Netherlands (2000), Ireland (2000), Singapore (1998-2003) and Japan (2002)⁸⁴. In the USA and the UK there have been cities that have also removed restrictions on licence numbers and they have been strongly supported in this regard by their national competition authorities. Closer to home has been the experience of the Northern Territory in removing and later re-instating controls on numbers, and of Victoria in moving away from a quantity-based restriction on licence numbers to a price-based restriction.

An important factor influencing the outcome of removing restrictions is the degree of restriction that has existed in a market over time. If the restriction on numbers has been severe it is likely that licence values will have been high and that substitutes like hire cars have grown in relative importance. There may also have been a growth in unlicensed trading. In these circumstances it would not be surprising to see a significant growth in licensed taxi numbers after removal of restrictions on numbers and a significant drop in licence values. Also there is likely to be reduced use of substitute services like hire cars, and of unlicensed trading. These outcomes have been observed in Ireland, for example, following the removal of restrictions on numbers in 2000, which was precipitated by a court decision invalidating the previous approach⁸⁵.

The impact of removing restrictions on numbers will also depend on what is done with other regulations affecting taxis which interact with the restriction on numbers. An important consideration here is whether fare regulation is also removed or relaxed at the same time. If fare regulation is removed, there may be an added stimulus for new businesses to enter the industry. This is because they could operate at a lower cost level than the incumbent firms who still have to meet the costs associated with licences acquired in the past. If fares are maintained at previous levels, the margins obtained by new entrants will at least for a time be greater than the incumbents obtain. A large number of new entrants could mean that the growth in capacity exceeds the growth in demand from better availability and cause vehicle productivity to decline.

⁸³ USA, Federal Trade Commission, Staff Advisory Opinion to Municipality of Anchorage, 19 April 2013.

⁸⁴ The experience of these countries was discussed in Victoria, Taxi Industry Inquiry, Draft Report, May 2012, especially chapter 9.

⁸⁵ For a recent review of the Irish experience see Paul K. Gorecki, “Evaluation of competitive impacts of government intervention”, Working Party No. 2 Competition and Regulation, Directorate for Financial and Enterprise Affairs Competition Committee, Organisation for Economic Cooperation and Development, 24 February 2014.

This may encourage fare increases if competitive pressures are weak in certain areas or at certain times. The experience of Ireland and the Netherlands can in part be explained by these pressures. In Ireland, maximum fare levels were maintained despite the value of licences plummeting when quantitative restrictions were abandoned. In the Netherlands, maximum fares were actually increased following the removal of quantitative restrictions and in the short term actual fares also increased. In the longer term fares declined as competition increased.

In some cases the removal of quantitative restrictions has been part of a more comprehensive move to deregulate the industry. Experience has shown, however, that there is a need to maintain and enforce regulation affecting the quality of service outcomes, for example driver training and performance management and vehicle condition. In New Zealand, for example, quality regulation had to be tightened some years after the initial deregulation of the industry. And in Sweden, it has been necessary to enhance consumer protections relating to the awareness of fares by requiring fares to be posted on the outside as well as the inside of taxis.

Deregulation in some USA cities resulted in over-crowding at ranks, in particular at airports. New independent operators who did not belong to a dispatch company were particularly attracted to ranks. This created problems for traffic management and orderly behaviour between drivers. These issues clearly need to be carefully managed, but by themselves do not justify continuation of quantitative restrictions with all their attendant costs.

Experience indicates that any attempt to remove quantitative restrictions on taxi licenses will provoke strong and sustained opposition from licence holders and operators in the industry. Licence holders will resist reforms likely to lead to loss of value of their licences. Operators will be concerned that the industry will be 'flooded' with new entrants. Drivers also may be persuaded that they will also be detrimentally affected by such a change even though industry demand as a whole should increase and their bargaining power in dealing with operators should increase. Strong political leadership and bi-partisan support is important to achieving sustained reform. It is also important that governments hold their nerve during the transition stage of reform.

In Ireland, following removal of quantitative restrictions a big increase in licence numbers occurred. Severe financial problems and recession later caused a sharp drop in demand. The combination of these factors caused a large over-supply of capacity in the industry placing pressure on drivers to maintain incomes and causing problems of congestion and over-ranking. Rather than waiting for market forces to correct the imbalance between supply and demand, the Government moved to place an informal moratorium on issuing new conventional licences. Market rationalisation has continued and the cap on licences has had little impact to date, but concerns have been expressed that if the cap is enshrined in legislation it will in the future cause problems⁸⁶.

⁸⁶ See Gorecki above

Premature reaction and an inappropriate response to a supply and demand imbalance were also characteristics of the Northern Territory's attempted reforms to quantitative restrictions in the late 1990s-early 2000s. The Government purchased all existing licences at a total cost of \$25m and commenced to lease licences annually at \$16,000 without quantitative restriction. This fee was to be removed when the licence buyback costs had been recouped in 7-8 years. The scheme was opposed by existing licence holders. In January 1999, when the scheme commenced, there were 138 taxi licences and 103 private hire licences in the NT. Taxi numbers increased significantly, having been severely restricted in the past, and the number of private hire vehicles fell. There was a consensus that driver standards fell with new people coming into the industry, and unsubstantiated concerns that average incomes had fallen. A new Government was elected in August 2001 having promised to set a cap on taxi numbers based on a ratio of 1:900. In November 2001 the Government imposed a temporary cap on numbers. By this time the number of taxis had increased to 186 (or by 34.8% over the nearly three years) and private hire cars had fallen to 69 (or by 33%)⁸⁷. Since then the temporary cap has become a fixture in Darwin and Alice Springs and licences continue to be made available for an annual fee, currently \$20,240 for Darwin and lower in other smaller towns.

The Northern Territory experience apparently had some influence on the WA Government in its response to NCP. The then Minister indicated that "The WA Government is concerned about the impact of deregulation on the Northern Territory. ... Both vehicle standards and driver behaviour are said to have deteriorated and we are told returns for drivers have dropped dramatically."⁸⁸

The lesson the Government should have taken from the NT experience was the process of removing quantitative restrictions needed to be carefully managed and that ensuring there were appropriate quality standards in place and enforced was a critical element of this.

The Victorian Taxi Industry Inquiry recommended that the Government adopt a price-based system for issuing licences, similar to that used in the NT and WA, but without any quantitative limit attached. Setting a high lease price is tantamount to imposing a strong restriction on entry. Entry is far from free when the cost of a licence is added to the cost of a vehicle and its fit out. A quantitative limit on top of this is not necessary, but potentially very harmful when, as experience shows, governments do not correctly second guess the requirements of the market. It is better for Governments to set the licence price and allow market participants to make their own judgements of market need. It is possible that some potential entrants may make irrational decisions regarding their prospects of success in the industry. If this is an issue, it is an issue which applies just as much in the situation where licence numbers

⁸⁷ See generally Des Nicholls, "The Impact of Deregulation on the Northern Territory Commercial Passenger Vehicle Industry", February 2003.

⁸⁸ The Hon. Alannah MacTiernan MLA, Minister for Planning and Infrastructure, "Meter ticking on taxi industry reform", Media Statement, 25 February 2003.

are restricted and periodically released, as it does in a more open market situation. It does suggest, as part of the process of managing the transition to a more open market, that Governments should provide information on the status of the market to potential entrants, and ensure they have some understanding of running a small business.

Despite dire warnings from industry bodies, the Victorian reforms do not yet appear to have led to a flood of new entrants to the industry. It is still very early days. New annual licences were made available 'as of right' from 30 June 2014. In the three months since then, the number of licences has increased from 3,826 to 4,226 or by 10.5%. This increase is not out of line with the Inquiry's expectations. It is unclear how many of the new licence holders were previously leasing licences from other licence holders at higher rates and what the overall increase in actual on the road capacity has been. Some safeguards were added to the legislation to allow the Taxi Services Commission to intervene if excessive entry did occur in the early stages of the reforms. It would have desirable for the Government to have allowed for some flexibility in the setting of the licence price as the means to control entry, rather than locking in an on-going escalation of this price.

10 The way forward: Recommendations

There have been significant reforms to taxi regulation in Perth over the past decade and these reforms provide a platform on which further reforms can be built in the future. The goals should be to:

- remove from fares the capitalised value of licences privately owned, which reduces the welfare consumers derive from taxi services and transfers welfare to licence owners;
- enhance the role competitive market forces have to play in determining the number of licences issued by the Government;
- maintain safety; and
- provide realistic opportunities for new innovation.

Some relatively simple changes to current arrangements need to be made to achieve the first two of these objectives:

1. Remove from the fare setting methodology the cost category of sub-lease fees and replace it with the cost of leasing a licence from the Government.

2. Review the annual fee set for the Government plate lease. Two options have been identified here. The first and preferred option is that the fee for a (conventional sedan) Government licence be reduced to \$10,000 per year. The alternative option is that this fee be set initially at the current level of \$13,390/year.

3. Remove the quantitative restriction on the number of licences available for lease from the Government at the current price.

These changes will mean that current owners of licences will not be able to lease these licences for as much as they do today. Currently there is a cap of \$355/week or \$18,460/year set for conventional licences. The current lease price set by the Government is \$3,347.50/quarter or \$13,390/year for sedans. If licences can be leased 'as of right' from the Government at a price of \$10,000 per year, there is likely to be little demand for leasing a licence from a private owner for considerably more than this. Anecdotal evidence given to us suggests that actual lease costs for privately owned licences frequently exceeds the \$18,460/year cap, and this is not unexpected given that there is a restriction on the total number of licences that are available.

Lower lease income and removal of the possibility of future capital gain on privately owned licences can be expected to reduce somewhat the transfer price of licences. The value of a perpetual income stream of \$10,000 is likely to be around \$150,000, depending on the discount rate applied.⁸⁹ The average licence transfer price in 2013

⁸⁹ A reasonable range for discount rates to consider would be 6%-8%. At 6% the perpetual value is

was \$291,140, implying a possible loss of around \$141,000. Even if no changes to licensing arrangements were made, market developments, particularly the move of Uber into ridesharing, is likely to have a negative effect on plate values.

There seems no reason why privately owned licences could not still exist with leased licences from the Government. There is no need to consider a compulsory buyback of licences; however, the Government could consider a voluntary buyback arrangement for licence owners wishing to sell out.

A licence buyback scheme implies that plate owners receive compensation for giving up their licences. The extent of the compensation will depend on the buyout price. Whether or not compensation is appropriate is a hotly contested issue. The ERA's view was that no compensation should be paid for essentially removing all the market value associated with taxi plates. At the other extreme, others suggest the full current market value for all plate owners should be the basis of any buyout, even though some licence holders may have acquired their licences at much lower prices and have realised good returns from their investments over the years since then.

In relation to the question of compensation several points seem relevant:

- There appears to be no legal entitlement to compensation. An explicit property right in a licence is not recognised legally and any implicit right is subject to the conditions determined in relation to that right. The right itself, if it existed, would not be removed under our proposals.
- Taxi licensing reform has been under active discussion for the past decade and more. Anyone who purchased a licence in this time from an existing owner must have been well aware of the risks involved. People who owned licences at the start of this period were given an opportunity to enter into a voluntary buyback arrangement.
- It is not normal for compensation to be paid by governments to those who may be adversely affected by particular reforms. Equally, those who gain from reforms are not taxed on the basis of particular reforms when they gain from them.
- The loss of licence value under our proposals is significant but not as large as was the case with some other taxi reform schemes, for example Ireland where markets were fully opened to competition and in Victoria where, as is proposed here, pricing is being used to restrict entry. In Victoria, the drop in licence value of around \$200,000 was not compensated by the Victorian Government.
- Fairness considerations apply to consumers and taxpayers as well as to licence owners. It would be unfair to expect consumers who have had to incur the costs of restrictive licensing to have to compensate those no longer fully

\$166,666 and at 8% the perpetual value is \$125,000.

benefiting from it. Similarly, the argument for tax payers incurring these costs is not clear.

An alternative to the payment of compensation for loss of licence value might be the provision of hardship assistance to plate owners who could demonstrate that the actions of the Government had placed them in extreme financial difficulties. A scheme along these lines was established in Ireland.

Whilst much more precise estimates could be provided, a full licence buyout at current market value might amount to around \$230m. An estimate based on the lower of the two Government lease price options would be significantly less than this, around \$120m. Offsetting the buyout amount would be the annual income from the lease of the Government plates which would replace the privately owned plates. Depending on what level this price was set at, a buyback of all remaining privately owned plates might take around 10 years. This implies that consumers will ultimately fund the buyback, which seems bizarre given that they have been the main victims of the restricted licensing system. However, there would still be a net gain to consumers from this reform, albeit a much smaller one while lease prices remain high.

4. The Government should consider a voluntary buyback of privately owned licences.

5. The voluntary buyback prices could be based on the perpetual value of the Government lease price.

The above proposals are a further step towards an open market, as recommended by the ERA, but they are very different from this in that they maintain significant restriction on entry to the taxi market. Any new entrant will be required to pay an annual licence fee of \$10,000 in our preferred option, in addition to the cost of the vehicle and its equipment. The proposals facilitate new entry by removing the ad hoc quantitative restrictions that have existed in the past. The market will in future determine the number of licences issued at the set price, not the political process.

Under the proposed new system there is still a control on entry to the industry exercised through the price that is set for a leased licence. This price should not be regarded as being fixed for all time, or as one that is annually escalated. It could in the longer term be adjusted taking into account expert judgement as to its appropriate level given market circumstances. Whilst the aim should eventually be to move the price downward toward a price that just covers the administrative costs involved with the licensing scheme, as proposed by the ERA, the need to maintain industry stability may temper this.

6. Regard should be had for the stability of the industry, as well as the administrative costs of the licensing scheme, in setting the Government lease price.

7. The ERAs expertise in pricing and economic analysis should be an input into decisions concerning an appropriate Government lease price for a licence.

It is highly desirable that the Government encourage the use of PBTs which are safer and more comfortable for drivers and passengers. These vehicles are significantly more costly to acquire and run than ordinary sedans so there is a disincentive for operators to use them. The Government can deal with this to some extent by substantially reducing the licence fee for PBT vehicles while this fee remains at a high level. This is what has been done with the current trial of PBTs, but the approach should be pursued more widely.

8. The government licence lease fee for PBT vehicles should be set at a level which just covers the administrative costs of licensing.

At present, only drivers have been able to lease licences. This policy was adopted in recognition of the low earnings obtained by bailee drivers and a desire to assist them to move into running their own businesses as owner-drivers. Owner-drivers are generally perceived to provide a better standard of service than other licence holders who just lease their licence to others. These considerations still apply, but under the proposed approach there is no need to limit access to licences in this way. Indeed, to do so would in all likelihood have a significant dampening effect on innovation and competition in the industry. In other markets, the innovators have generally been the fleet operators who manage many vehicles.

Under the new approach there is no need to restrict a person or entity to just holding one licence. The current limit of 5 owned plates can be removed. Competition law could deal with concerns of excessive concentration of licences

The restriction placed on the percentage of leased conventional licences to total conventional licences now also has no justification, if it ever did. It has just served to distort licensing policy by increasing the number of peak period licences.

Removal of the quantitative restriction on general licence numbers also means that restrictions placed on the use of licences at particular times or places, or to require drivers to do a minimum number of shifts to maximize the number of vehicles on the road are unlikely to be necessary any more. Licence holders should be free to operate their leases in a manner they think is best for their businesses.

9. Licences should be available to any person/entity satisfying the specified criteria and making the appropriate payment. Standards should be based on competency not experience.

10. The system of bailment under which ordinary drivers operate should be reviewed as part of the proposed licensing reform program. The system is exploitative and undermines good service performance.

11. There should be no restriction placed on the number of plates that can be leased by any one individual/entity. The regulator should liaise with the Australian Competition and Consumer Commission to determine any limits on concentration.

12. There is no need to limit the percentage of leased conventional licences to total conventional licences.

13. There should be a review of the necessity for peak period and restricted area licences and of licence conditions relating to minimum numbers of shifts and hours in light of the removal of quantitative restrictions on conventional licences.

The removal of quantitative restrictions on licences and freeing up of the pre-booked market would provide an opportunity to also remove the requirement for mandatory affiliation with a TDS. Removal of mandatory affiliation would be a desirable short term measure to assist in the development of a more competitive market at the dispatch level. In the longer term, it would not be inconsistent with a competitive market model to re-introduce mandatory affiliation, as the New Zealand experience has shown.

14. The mandatory requirement for affiliation with a TDS should be removed if its objective can be readily achieved by other means. The removal of mandatory affiliation should be used to help promote a more competitive market structure for dispatch services.

15. In the absence of quantity restrictions on entry and mandatory affiliation requirements the TDSs should also be allowed to lease government licences and acquire privately owned licences.

The mandatory guarantee provisions of the ACL may not apply to TDS operators as they do to other service providers who contract directly with customers. However, consumers have a right to expect that their bookings will be honoured and services performed appropriately. The ACL requires that services be provided with due care and skill, be fit for any specified purpose and be within a reasonable time (when there is no time set).

16. Legislation should be enacted to ensure that TDS organisations are subject to the same service guarantee provisions as apply to other service providers under the Australian Consumer Law.

This report has mainly been focused on the operation of the taxi industry in the Perth metropolitan area. It is apparent, however, that many of the issues discussed in the report also have relevance to smaller markets in regional areas of WA. In some of these markets licence values are quite high.

17. It is desirable that any reforms to restrictive licensing arrangements incorporate both metropolitan Perth and non-metropolitan markets. There is no reason why the approach to reform proposed in this report could not also apply to non-metropolitan markets.

It is important that adequate driver and vehicle regulation is in place to protect the safety of passengers using pre-booked services. However, this does not mean that the regulatory requirements imposed on taxi drivers and taxis must also apply to specialist pre-booked service providers. The requirements for regulation of SCVs and PTs differ because consumers do not experience the same risks that they do when picking a taxi up off the street. This is recognised to a degree already, for example, by the more stringent requirements to obtain a T extension licence as opposed to an F extension licence. However, the requirement that applicants for the F extension covering a small commercial vehicle be a year older and have had an unrestricted licence for a year longer than is required for a T extension seems to be an anomaly which should be removed.

Because taxis have been heavily regulated, operators have often claimed that SCVs and PTs should be subject to the same regulation to maintain a level playing field. An example of this is the call for SCVs to have equivalent security cameras, as do taxis. The case for doing this seems weak. The low incidence of problems in relation to SCVs does not suggest such a move is necessary. The level playing field argument is relevant when comparing like with like. It is not relevant when comparing rank and hail services with pre-booked services.

The level playing field argument has gained greater sympathy when higher costs have been imposed on taxis which it was claimed could not readily be recovered when competitors in the pre-booked market segment could undercut taxis on pricing. This has been the basis for imposing other inefficient restrictions on hire cars, in particular the requirements to utilise luxury vehicles and to adhere to minimum pricing. Again these arguments cannot be accepted at face value. If regulation imposes inefficient costs on taxis, as it has done through restricting the number of licences on issue, the response should be to remove this regulation, rather than impose still more inefficient regulation to support it. Further, any compensating actions should involve a minimum of restriction. Taxis could have some of their additional costs, for example those associated with new cameras, subsidised. Further, if given greater flexibility in their pricing, taxis may be more able to recover their higher costs. And a better way to restrict the competitiveness of SCVs and PTs relative to taxis would be to set a higher annual licence fee for them, rather than distort the market by requiring they only use luxury vehicles and adhere to minimum prices.

18. The same age and probationary licence restrictions that apply to applicants for T extension licences should apply to applicants for F extension licences where these are to be used in conjunction with SCV or PT licences.

19. SCV and PT licence conditions requiring licence holders to utilise only luxury vehicles and charge minimum prices for their services should be abandoned and replaced by a set annual licence fee.

20. Whilst maximum fare controls for rank and hail taxi work should be retained in the short term, maximum fare controls for pre-booked services provided by taxis should be removed except when fares are subsidised under TUSS.

The 10% service fee charged for non-cash electronic payments in taxis is excessive and arises from a lack of competition in card payments and processing and in taxi fare setting.

21. Non-cash electronic payment service fees charged by taxis should be subject to controls. WA should follow Victoria and NSW in imposing a cap of 5% on these fees.

22. Consumer education and information programs should be undertaken to advise consumers of the new arrangements affecting taxi fare setting, specifically the removal of controls from pre-booked services.

23. Technology providers of smart phone booking applications used in taxis and SCVs and for commercial ride sharing services should be registered, as are taxi dispatch networks.

24. Providers of smart phone booking applications used for commercial ride sharing services should be required to provide an appropriate minimum level of insurance cover for these services.

25. Drivers providing commercial ride sharing services should be required to obtain an extended licence. Licence requirements do not have to be as extensive as for a taxi driver, but do need to include a criminal record check and ensure appropriate insurance cover.

26. Vehicles used to provide commercial ride sharing services should be licensed and subject to annual inspection.

The efficient and effective operation of wheelchair taxi services is of vital importance to disabled users. The current system is not working as well as it should be and, in addition to the removal of quantitative restrictions on licences, there are a number of initiatives that could be taken to improve the service.

27. A MPT Review Team with significant user representation should be established to complete the work of the Taxi Industry Board on MPTs and consider and promote ideas for service improvement.

28. Drivers should be given more incentives to undertake wheelchair work by further reducing the Government lease fee for a MPT licence in line with the PBT fee and by removing unnecessarily prescriptive regulatory requirements.

29. Consideration should be given to removing the requirement that an MPT be able to carry a minimum of two hirers seated in their wheelchairs.

30. The regulator should further encourage the use of PBTs for wheelchair use. Any technical or operational matters preventing the use of these taxis by wheelchair users should be dealt with expeditiously.

The arguments for exempting taxis from regulations concerning the use of child safety restraints are unconvincing in the light of the potential community benefits. The administrative and cost issues seem relatively minor. Drivers should, however, be able to recover the reasonable costs they incur in providing the appropriate restraints.

31. Taxi drivers should no longer be exempt from the general requirements relating to the use of child restraints in their vehicles.

The legislation affecting taxis and other small passenger vehicles in WA is fragmented and outdated in many places. There are differences in definitions and penalties and licensing processes between the legislation relating to the Perth metropolitan area and the non-metropolitan areas of WA which seem to relate more to when the legislation was passed rather than its coherence. The definition of a taxi should be reviewed and an SCV licence, separate from the Omnibus licence should be introduced.

There are requirements that the Taxi Act 1994 and the Transport Co-Ordination Act 1966 be reviewed every 5 years and reports of these reviews be made public, but these requirements do not seem to have been fully complied with over time.

The legislation will need to be amended if the changes proposed by this report are adopted. This could also be an opportunity to update it more generally.

32. The legislation relating to taxis and other small commercial vehicles should be reviewed and updated to reflect modern requirements. The legislation should apply across the State rather than having separate legislation applying to metropolitan Perth and non-metropolitan regional areas.

As part of the review of the legislation the role and function of the TIB should be considered. This body seems to duplicate functions which should be performed by the Department and the regulator. Currently, it is understood that there are no members appointed to the body.

The PSBU, as an arm of DoT, provides both policy advice to the Director-General and Minister and undertakes administrative and enforcement responsibilities relating to taxis and other small commercial passenger vehicles. It currently has a staff of around 50. Ideally, policy and regulatory responsibilities should be split so that policy options can be assessed by the Department and regulation can be pursued by an independent agency without undue political interference. There should be less need for Ministerial involvement in licensing and fare setting decisions in the future given the changes recommended by this report. There is a need for the regulator to be more transparent and accountable to the public for its actions than has been required to date.

33. The Government should in reviewing the legislation consider abolishing the TIB and create an independent regulator for taxis and other small commercial vehicles separate from the regulation of public transport. This regulator needs to be appropriately resourced and operate in a fully transparent and accountable manner.

The recent VTII was a comprehensive review of the industry in that State. Whilst there are numerous differences between the States, there would be benefit in WA formally considering the relevance of the Victorian recommendations to its own situation.

34. The WA Government should consider the experience of the Victorian Government in reforming the taxi industry and some of the lessons this experience provides. In particular, the comprehensive approach to reform and the emphasis placed on managing the implementation of reforms were important.

Appendix 1: Summary of the current legislative framework affecting taxis in Western Australia

The taxi industry is regulated through general laws such as the Australian Competition and Consumer Act, including the Australian Consumer Law, as well as taxi industry specific laws. The main provisions of the latter, which are largely administered by the Western Australian Department of Transport, are briefly summarised below.

Taxi Act 1994

The Taxi Act 1994 covers the operation of the taxi industry in Perth. This Act gives powers to the Minister and the Director-General (of the Department of Transport) to regulate the industry. The Minister can give directions to the Director-General in writing with respect to the performance of his or her functions⁹⁰ under the Act, and the Director-General is required to ‘advise the Minister as to the most effective way of ensuring the provision of adequate and efficient taxi services to the public’⁹¹.

The Act establishes a Taxi Industry Board whose seven members, appointed by the Minister, are to have ‘knowledge or experience in the taxi industry or as consumers of taxi services.’⁹² The Board’s functions are ‘(a) to keep the Minister informed as to the state of the taxi industry; and (b) to develop policies and plans for the improvement of the taxi industry; and (c) when requested by the Minister, to advise the Minister in relation to the applications for grants from monies standing to the credit of the Taxi Industry Development Account.’⁹³ Board members have two-year terms. As at the end of July 2014, the Board member positions were all vacant. The Taxi Industry Development Account receives monies from the sale, lease or issue of taxi plates. Monies in the Account can be used for ‘promotional, research and development projects intended and designed to benefit the taxi industry.’⁹⁴

The Act defines a taxi as ‘a vehicle which is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward, but does not include an omnibus listed under the Transport Co-ordination Act 1996 or a vehicle of a class declared by the Director-General not to be a taxi.’⁹⁵

The Act specifies that a vehicle may not be operated as a taxi within a control area unless that vehicle is operated – (a) using taxi plates; and (b) in accordance with the Act.⁹⁶ Taxi plates are to be offered for sale by public tender and for lease, with

⁹⁰ Taxi Act 1994, section 5

⁹¹ *Ibid.*, section 7.

⁹² *Ibid.*, section 8.

⁹³ *Ibid.*, section 14.

⁹⁴ *Ibid.*, section 41

⁹⁵ *Ibid.*, section 3.

⁹⁶ *Ibid.*, section 15.

criteria for both methods to be specified and conditions able to be imposed on use⁹⁷. Applicants need to be of good repute and be fit persons to own or lease taxi plates.⁹⁸ No plates will be issued to any tenderer who would have an ownership stake in more than five plates⁹⁹; and tenders or applications are not to be accepted by the Director-General if the number of taxis of any particular class in a control area would exceed a prescribed number¹⁰⁰. The Minister must approve the issuing of any new plates.¹⁰¹

Plates can only be leased to individuals who the Director-General is satisfied ‘(a) will be the owner and principle driver of the vehicle operated as a taxi using the plates; and (b) is not the owner, and has no interest in the ownership, of taxi plates; and (c) is not the lessee of taxi plates.’¹⁰²

Conventional taxi plates can only be offered for lease if the total number of leased plated does not exceed a relevant percentage of the total number of conventional plates on issue, whether owned or leased¹⁰³. The relevant percentage is 35% or higher as prescribed by regulation¹⁰⁴. Currently the regulations prescribe it to be 45%¹⁰⁵.

Taxi plates that are leased are not transferable. Where plates are owned, they may be transferred on terms agreed by the transferor and transferee, subject to approval by the Director-General and compliance with the ownership cap of five plates.¹⁰⁶The regulations provide for 2.5% of the value of the plates to be paid as a fee on transfer, except in specified circumstances.¹⁰⁷

The Director-General can impose conditions on the operation of a taxi using specified plates in relation to a wide range of matters including; (a) the area in which, and the hours during which the taxi may be operated and the hours during which the taxi must be operated; (b) fare schedules; (c) driver qualifications and standards; (d) vehicle standards and inspection requirements; (e) insurance requirements; (f) record keeping; (g) complaint resolution; (h) the transfer of taxi plates and ‘such matters as may be prescribed by regulation.’¹⁰⁸ The Director-General can direct the manner in which plates are used and take action to remove plates when requirements are not being met¹⁰⁹.

The Act provides for the registration of taxi dispatch services¹¹⁰. The Act defines these as ‘a service that provides- (a) radio base, computer or telephone services for taxis or makes arrangements for taxis to be provided with such services; and (b)

⁹⁷ Ibid., section 16 (1) and (2).

⁹⁸ Ibid., section 18 (1).

⁹⁹ Ibid., section 17 (4).

¹⁰⁰ Ibid., section 18 (1)(c).

¹⁰¹ Ibid., section 18 (2).

¹⁰² Ibid., section 16 (4).

¹⁰³ Ibid., section 16 (3).

¹⁰⁴ Ibid., section 16 (10).

¹⁰⁵ Taxi Regulations 1995, section 4A

¹⁰⁶ Taxi Act, section 24.

¹⁰⁷ Taxi Regulations 1995, section 19.

¹⁰⁸ Taxi Act, section 20

¹⁰⁹ Ibid., sections 21-23A.

¹¹⁰ Ibid., sections 26-28.

controlling, co-ordinating, administrative and other services to the taxi industry, for the purpose of arranging for a person who requests a taxi to be provided with one.’¹¹¹ The Director-General may impose conditions on taxi dispatch services in relation to – ‘(a) fare schedules; (b) customer service standards; (c) administration and infrastructure standards; (d) record keeping; (e) complaint resolution and such other matters as may be prescribed by regulation.’¹¹²

Provisions relating to a buy-back scheme for multi-purpose taxi plates were inserted in the Act in 2006. Plate owners can be compensated for the surrender and cancellation of transferable Multi-purpose Taxi (MPT) plates subject to agreement with the Director-General. A buy-back agreement depends on the Minister being satisfied that ‘a sufficient number of MPT investor-owners have accepted an offer to enter into a buy-back agreement.’¹¹³ MPT taxi plates are offered for lease to former plate owners for ten years with a condition that a vehicle has to be operated using the leased plate for three years and a bond be paid¹¹⁴. Further buy-backs may occur when additional plates are leased. Owners selected by ballot can then be compensated for the surrender and cancellation of their plates.

Provisions also exist to allow persons to exchange owned restricted hours taxi plates for owned conventional taxi plates¹¹⁵.

The Act has general provisions in Part 4 for the appointment of authorised officers with information collection and enforcement powers, including powers to take action against vehicles found to be in an unsatisfactory condition, and to issue infringement notices. Offences under the Act can be prosecuted. The Act provides rights of appeal to the Administrative Tribunal from decisions of the Director-General. It also provides for the regulation of bonds lodged by drivers with operators¹¹⁶.

The Minister is required to carry out a review of the operations of the Act every 5 years and to provide the Parliament with a report of this review as soon as practicable after its preparation¹¹⁷.

Regulations can be prescribed for “all matters that are required or permitted by the Act or are necessary or convenient for giving effect to the purposes of the Act”¹¹⁸. Included in the list of specific matters identified is (c) prescribing the number of any particular class of taxi plates which may be issued per 1000 head of population in a control area or part of a control area. No regulation along these lines is currently prescribed.

¹¹¹ Ibid., section 3.

¹¹² Ibid., section 29

¹¹³ Ibid., section 30A-C.

¹¹⁴ Ibid., section 30D

¹¹⁵ Ibid., section 30I.

¹¹⁶ Ibid., section 36.

¹¹⁷ Ibid., section 45

¹¹⁸ Ibid., section 40. Matters affecting the conduct and behaviour of drivers and regulating the circumstances under which a driver may refuse to accept a passenger or terminate a hiring will be regulated in future under the Taxi Driver Licensing Act 2014.

Taxi Regulations 1995

The regulations provide for conditions to be imposed on MPTs including requiring operators and drivers to give priority to disabled and wheelchair passengers, restricting operators and drivers to particular dispatch service providers and imposing a minimum monthly number of wheelchair passenger hirings¹¹⁹.

The Director-General may impose conditions in relation to leasing of taxis (with plates) and the leasing of plates, including the requirement to provide information on the terms and conditions involved and maximum lease charges¹²⁰. The regulations require the display of the fare schedule in the taxi¹²¹ and indicate that fares charged are generally not to be more than that shown on the meter¹²².

Drivers are required to take the most economical routes¹²³ and must accept any hirer, except where specified circumstances apply¹²⁴. Other aspects of driver conduct and passenger conduct, for example in relation to non-payment of fares, are also dealt with. The regulations deal extensively with camera surveillance units¹²⁵ and meters¹²⁶, the conduct and dress of drivers¹²⁷ and infringement notice penalties¹²⁸.

Taxi Drivers Licensing Act 2014

This Act relates primarily to the licensing and regulation of taxi drivers. It may apply to Perth or other prescribed areas of the State¹²⁹. It is a criminal offence to drive a taxi without a licence and to cause or permit a person to do so¹³⁰. A taxi must be used 'for the purpose of standing or plying for hire or otherwise for the purposes of carrying passengers for reward' and be operated using plates or a licence¹³¹.

Persons, who are disqualified, due to unlicensed driving, being convicted of a prescribed offence under this or other legislation, or by accumulating an excessive number of penalty points, cannot apply for a taxi driver licence¹³². To be granted a licence a person:

¹¹⁹ Taxi Regulations 1995, section 5.

¹²⁰ Ibid., section 7.

¹²¹ Ibid., section 7.

¹²² Ibid., section 8.

¹²³ Ibid., section 11.

¹²⁴ Ibid., section 13.

¹²⁵ Ibid., sections 13B-H.

¹²⁶ Ibid., section 18.

¹²⁷ Ibid., sections 14-17B.

¹²⁸ Ibid., section 22, Schedule 1.

¹²⁹ Taxi Drivers Licensing Act 2014, section 7.

¹³⁰ Ibid., sections 8-9.

¹³¹ Ibid., section 4.

¹³² Ibid., sections 11 and 33.

- must hold a driver's licence;
- have held a driver's authorisation for at least three years;
- be at least 20 years old;
- be a fit and proper person to hold a licence;
- be mentally and physically fit to drive a taxi (based on a medical practitioner's examination and report);
- have successfully completed any required training course or test; and
- have met any other criteria prescribed by regulations¹³³.

Regulations are yet to be prescribed under the Act.

A person is deemed not to be fit and proper if they have been convicted of a disqualifying offence. In determining whether a person is fit and proper, regard may also be had for whether there are reasonable grounds for suspecting that the applicant has contravened the Act, regulations or a code of conduct prescribed under section 29 of the Act.

Applicants are required to specify which class of vehicle and which designated area they are seeking authorisation¹³⁴.

The Act provides for regulations to cover the conduct and behaviour of drivers¹³⁵.

The code of conduct is a disallowable instrument by Parliament.

The CEO (Director-General) is given power to suspend or cancel licences in specified circumstances and to disqualify people from having a licence¹³⁶. A penalty points system is introduced for other prescribed offences under taxi industry legislation¹³⁷. A register of penalty points is to be kept and when an excessive number of points is accumulated a licence can be cancelled and the person be disqualified from holding a licence.

Authorised officers, including police officers, are given significant powers to monitor compliance; to investigate suspected contraventions and for investigating whether there are grounds to suspend or cancel licences¹³⁸. These powers include stopping and detaining vehicles, inspecting documents, and requiring information to be disclosed. Search warrants may be obtained to enter premises in specified circumstances. Information can also be exchanged with police and other authorities, including inter-state taxi regulators¹³⁹.

¹³³ Ibid., section 12

¹³⁴ Ibid., section 11

¹³⁵ Ibid., sections 28-29.

¹³⁶ Ibid., section 30.

¹³⁷ Ibid., sections 34-38.

¹³⁸ Ibid., sections 41-46.

¹³⁹ Ibid., sections 47-54.

Transport Co-ordination Act 1966

The Transport Co-ordination Act 1966 aims generally to ensure proper co-ordination and regulation of transport services in Western Australia. It deals with the various transport modes including road, rail, air and water transport. Part 111B of the Act specifically covers taxis (referred to as taxi-cars) in country districts. Hire cars, potentially at least a close substitute for taxis, across the State are also regulated under the Act. They fit under the definition of omnibus, which is ‘a motor vehicle used or intended to be used as a passenger vehicle to carry passengers for hire or reward, ... but does not include a vehicle operating as a taxi using taxi plates issued under the Taxi Act 1994 or licensed as a taxi-car under Part 111B.’¹⁴⁰

The Act provides for the establishment of a Transport Co-ordination Ministerial Body and Transport Strategy Committees. The Minister has power under the Act to exercise key functions, including determining licence applications for public vehicles and specifying licence conditions, restrictions and prohibitions¹⁴¹. The Minister can exercise general control over the administration of the Act, which is the responsibility of the Director-General, and can also delegate functions, powers or duties to the Director-General¹⁴².

In relation to public vehicles, including omnibus licences, the Minister may before granting or refusing a licence “take into account one or more of the following matters-

- (a) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service; and
- (b) the existing service for the conveyance of passengers upon the routes, or within the area, proposed to be serviced in relation to –
 - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
 - (ii) the effect upon the existing service of the service proposed to be provided; and
- (c) the condition of the roads to be included in any proposed route or area; and
- (d) the character, qualifications and financial stability of the applicant; and
- (e) the interests of persons requiring transport to be provided, and of the community generally, but shall not be obliged, in relation to any particular licence application, to take into account all of these matters”¹⁴³.

¹⁴⁰ Transport Co-ordination Act 1966, Section 4.

¹⁴¹ Ibid., Section 16 (4)

¹⁴² Ibid., Section 15.

¹⁴³ Ibid., Section 26.

Whilst the Minister is not required to consider all these matters, the Act clearly points to them being considered. This raises potential concerns about their impact on competition. The hurdles facing new entrants will be increased when considerations turn to such issues as public need, financial viability and impact on incumbent operators. The relevance of these issues to hire cars seems especially weak.

There are provisions in the Act for Local Government to have a say in approving licences and setting fares, although the Minister still has substantial influence.¹⁴⁴ There is a requirement that ‘no taxi-car shall be operated within a district unless the owner is the holder of a taxi-car licence issued in respect of that vehicle for that district.’¹⁴⁵

There are relatively few substantive regulatory provisions contained in Part 111B. It seems to have been envisaged, given the long list of matters the Act provides Regulations for, that Regulations would be comprehensive in this regard. In fact, this does not seem to be the case as many matters are left to the discretionary judgement of the Director-General through conditions.

As with the Taxi Act 1994, there is a requirement for the Minister to carry out a review of the Act (including presumably Part 111B) every 5 years and to prepare a report of the review for the Parliament as soon as practicable after its preparation¹⁴⁶.

Transport (Country Taxi-car) Regulations 1982

These regulations cover the licensing of taxis (taxi-cars), the conduct of drivers, the condition and appearance of taxis, taximeters, the powers of authorised officers and the Director-General, disciplinary procedures, and offences and penalties.

The Director-General has power to approve most aspects of the vehicle¹⁴⁷, although the actual requirements are not specified by the regulations. Licensed vehicles are essentially tied to particular districts¹⁴⁸. Drivers have an obligation not to refuse lawful hirings, except in specified circumstances.¹⁴⁹ Drivers are required to take the shortest route unless directed otherwise by the hirer.¹⁵⁰ Taximeter installation and use has to be approved by the Director-General¹⁵¹. Taxi operators can be required to provide statistics on the operation of their taxis to the Director-General.¹⁵² The Minister is given the powers to discipline licence holders¹⁵³ with rights of appeal to the State Administrative Tribunal, except in relation to reprimands¹⁵⁴.

¹⁴⁴ Ibid., Section 47ZG.

¹⁴⁵ Ibid., Section 47ZD.

¹⁴⁶ Ibid., section 64.

¹⁴⁷ Transport (Country taxi-car) Regulations 1982, section 12

¹⁴⁸ Ibid., section 16.

¹⁴⁹ Ibid., section 26.

¹⁵⁰ Ibid. section 27.

¹⁵¹ Ibid., section 33-39A

¹⁵² Ibid., section 43.

¹⁵³ Ibid., section 44.

¹⁵⁴ Ibid., section 46.

Country Taxi-cars (Fares and Charges) Regulations 1991.

Fares and charges are specified for the nine regions of WA outside Perth. The fares and charges ‘taken or made for the hire of the taxi-car shall not be more than those set out’ in a schedule. Lower (and higher) fares and charges can be ‘taken or made’ if the Director-General approves them as (a) special fares or charges, or both, for particular local conditions; or (b) contract rates.¹⁵⁵

¹⁵⁵ Country Taxi-cars (Fares and Charges) Regulations 1991, section 3.

Appendix 2: Overview of the development of WA taxi legislation and quantitative restrictions on licences

Prior to 1964, taxis were regulated throughout the State by the Chief Commissioner of Police as administrator of the Traffic Act.

In 1958 an amendment to the Traffic Act imposed limits on the number of taxi licences that could be issued. The amendment specified a limit of one licence for every 600 of the population in the metropolitan area, but also gave discretion to the Commissioner to limit increases to 1 in any month. It also imposed restrictions to prevent licence transfers from occurring. The amendment arose out of debate over another Bill which sought to bring drivers operating under bailment arrangements within the ambit of industrial relations law thereby ensuring the benefits of minimum award rates, long service leave and workers compensation coverage.

The circumstances at the time were outlined in the second reading speech of the Minister for Labour. “It stems from a position that has arisen over the past few years, where investors or principals hire out vehicles to others. I am given to understand that these principals carry on the business as a sideline and charge 20 to 25 pounds a week for the hire of a vehicle. The owner-drivers of taxis – those owning their own vehicles and who are not regarded as employees in any sense of the term- are perturbed at the hirers having to pay such a large amount per week, and having to work excessive hours to meet the hire charge and living expenses. In such cases it is considered that the Court should have the power and jurisdiction to determine the exact relationship between the parties and whether in fact the relationship of employer and employee or independent contractor and principal exists.”¹⁵⁶

The Minister’s statement suggests that acquisition of licences by investors, who were no doubt keen to maximise their returns from the industry, may have pushed some drivers onto bailment arrangements and increased drivers’ incentive to obtain jobs to meet the costs associated with hiring the vehicles and plates. This, in turn may have added to the competitive pressures owner-drivers faced. Whether it was this fact or an altruistic concern over the welfare of the bailee drivers that encouraged the owner-drivers to support the proposed legislation is a moot point.

In any event, consideration of the Bill in the Legislative Council where the Opposition had the numbers resulted in a completely different outcome. A Select Committee was quickly convened and took evidence from a large number of industry participants who confirmed that drivers were working very long hours. It was considered, however,

¹⁵⁶ The Hon. W. Hegeny, Minister for Labour, Second reading speech Industrial Arbitration Act Amendment Bill (No. 3) W.A. Hansard, Legislative Assembly, 30 October 1958, p. 1891.

that operators could not afford to pay award wages and if they had to they would cut back on their employment in the industry. An alternative policy, which maintained employment, was considered necessary to stabilise the industry. As most of the industry witnesses considered the source of the problems to be an excessive number of cabs on the road, the policy of restricting numbers emerged as the favoured option¹⁵⁷. The policy was ill-considered and developed on the run, seemingly with little independent expert advice or input from consumers.

Taxi-Cars (Coordination and Control) Act 1963

This legislation was a response to industry requests for a greater role in the regulation and operation of the industry. Accordingly, a Taxi Control Board (TCB) of seven people (the Chairman was the Commissioner of Transport or deputy; three members were from the public sector including representatives of the Police, metropolitan local authorities and the Metropolitan (Perth) Passenger Transport; and three members were from the industry, one nominated by the WA Taxi Operators' Association and two elected taxi car owners and operators) was appointed. The TCB was given powers over metropolitan licensing, fares and other many matters. It administered, subject to the Minister, the regulatory functions of the Act. The expenses of the TCB were paid out of a Taxi Control Fund.

Under the Act, there was an overall limit on the number of licences of one licence for 700 persons in the metropolitan area, and not less than one per 800 persons¹⁵⁸. At that time there were 726 taxis, or 644 people per taxi, 57 in excess of the statutory limit. The TCB was located within the Transport Department to keep administration costs down. Police still issued licences and did vehicle inspections. Most taxis were owner-driver and most of them were working with or in conjunction with six companies (650 out of 726)¹⁵⁹. The transfer of plates was restricted essentially to when a person died or in cases of hardship.

Transport Amendment Act (no.3) 1981 and Road Traffic Amendment Act (No. 2) 1981

These Acts transferred the regulation of country taxis from the Road Traffic Authority (the Traffic Act) to the Commissioner of Transport (Transport Act, now Part 111B of the Transport Coordination Act 1966). It was originally thought that the TCB's role would be extended to cover country taxis, but later it was considered that the TCB had no affinity with country based taxis¹⁶⁰. Shifting it to Transport provided a stronger link with public transport and facilitated the development of policy, including on

¹⁵⁷ The number of taxi plates on issue increased from 397 in 1950 to 751 in 1958, or by 89.2% over the eight years.

¹⁵⁸ Taxi-Cars (Coordination and Control) Act 1963, section 11 (2).

¹⁵⁹ Mr. Craig, Minister for Police, Taxi-Cars (Coordination and Control) Bill Second reading speech, W.A. Hansard, Legislative Assembly, 29 October 1963, pp. 2138-2140.

¹⁶⁰ The Hon. D.J. Wordsworth, Minister for Lands, Second reading speech Transport Amendment Bill (No. 3) WA Hansard Legislative Council 13 October 1981, pp. 4241-4242.

regulating fares. Under this legislation local authorities still had to give approval for a new licence, but they were allowed to surrender this right if they chose to do so.

Taxi-Car Control Act 1985

On taking office, the new Government had increased industry representation on the Board from three to six allowing the industry to dominate decision making.

The legislation was a response to industry desires to have increased influence on its destiny. The act did this whilst also placing increased responsibility on the industry for its performance. The Act replaced the Taxi-Cars (Coordination and Control) Act 1963 in application to the metropolitan area.

The TCB continued to operate with 10 members. These included the Chairman, representatives from the Traffic Board, local authorities and Metropolitan (Perth) Passenger Transport Trust; 2 members nominated by the Minister who had an active involvement in the provision of taxi-car services; and four members elected to represent the interests of taxi-car owners and operators. Not more than one of the elected members was to be not actively engaged in the operation of a taxi-car.

The TCB's role was to monitor the industry, make recommendations for legislative change and take actions considered necessary to "assist in providing an adequate and efficient taxi-car service to the public." The TCB had responsibility for determining the number of licences issued. This number was now subject to a statutory limit of 1 licence per 1000 population.¹⁶¹ However, provision was made for issuing temporary licences (with the Americas Cup coming up), which were not limited by the statutory cap. Other restrictions under the Act were placed on the transferability of licences – if licences were issued after 1971 they could not be transferred for 7 years – and on the number of licences an individual licence holder could hold - five. The TCB had disciplinary powers in relation to licensees.

Dispatch services were made subject to licensing and offences were specified for them failing to deal with complaints relating to the standard and quality of services, cleanliness and condition of taxis and the conduct and dress of drivers, and for not providing performance information to the regulator.

A new provision inserted into this Act required that the Act should be reviewed every 5 years.

¹⁶¹ Taxi-Car Control Act 1985, section 15(2).

Taxi Act 1994

This Act replaced the Taxi-Car Control Act 1985, which was repealed.

The TCB was abolished, but in its place a Taxi Industry Board (TIB) was established. The TIB was a better balanced body with more of an advisory role to the Minister rather than the comprehensive regulatory role of its predecessor. This latter role now rested more with the Department. The TIB had 7 members with knowledge of the industry or as consumers of taxi services. Its functions were to keep the Minister informed, develop policies and industry improvement plans and, when requested, advise the Minister on applications for grants from the Taxi Industry Development Fund for promotional, research and development purposes.

The Act made provision for taxi plates to be offered for sale by public tender. A cap still applied to the overall number of licences that could be issued. The Act provided that Regulations could prescribe the number of licences per 1000 population for classes of licence and for different areas within the control area. The regulations prescribed a cap of 0.86 licences per 1000 population for metered taxis operating in a control area and 0.14 per 1000 population for Multi-purpose and restricted taxis combined operating in a control area.¹⁶² This Regulation continued to have force until 7 March 2008.

Taxi dispatch services are registered under the Act. They must be capable of providing an efficient and reliable service. The Director-General can under the Act impose conditions on fare schedules and customer service standards, record keeping and complaint resolution.

The Act regulated the payment of bonds by drivers.

It also provided for the surrender of plates if invited to do so and for the Minister to make a reasonable payment depending on the premium paid for the plate and the market value. Monies to fund these payments were to come out of the Development Fund with provisions for borrowings to be made from the Treasury.

As with the 1985 Act, there was a provision included which required a review of the Act to be conducted every 5 years.

¹⁶² Regulation 6, Taxi Regulations 1995. Note Regulation 6(2) was amended from 0.14 to 0.37 in early 2000. WA Gazette 1 February 2000, p. 383.