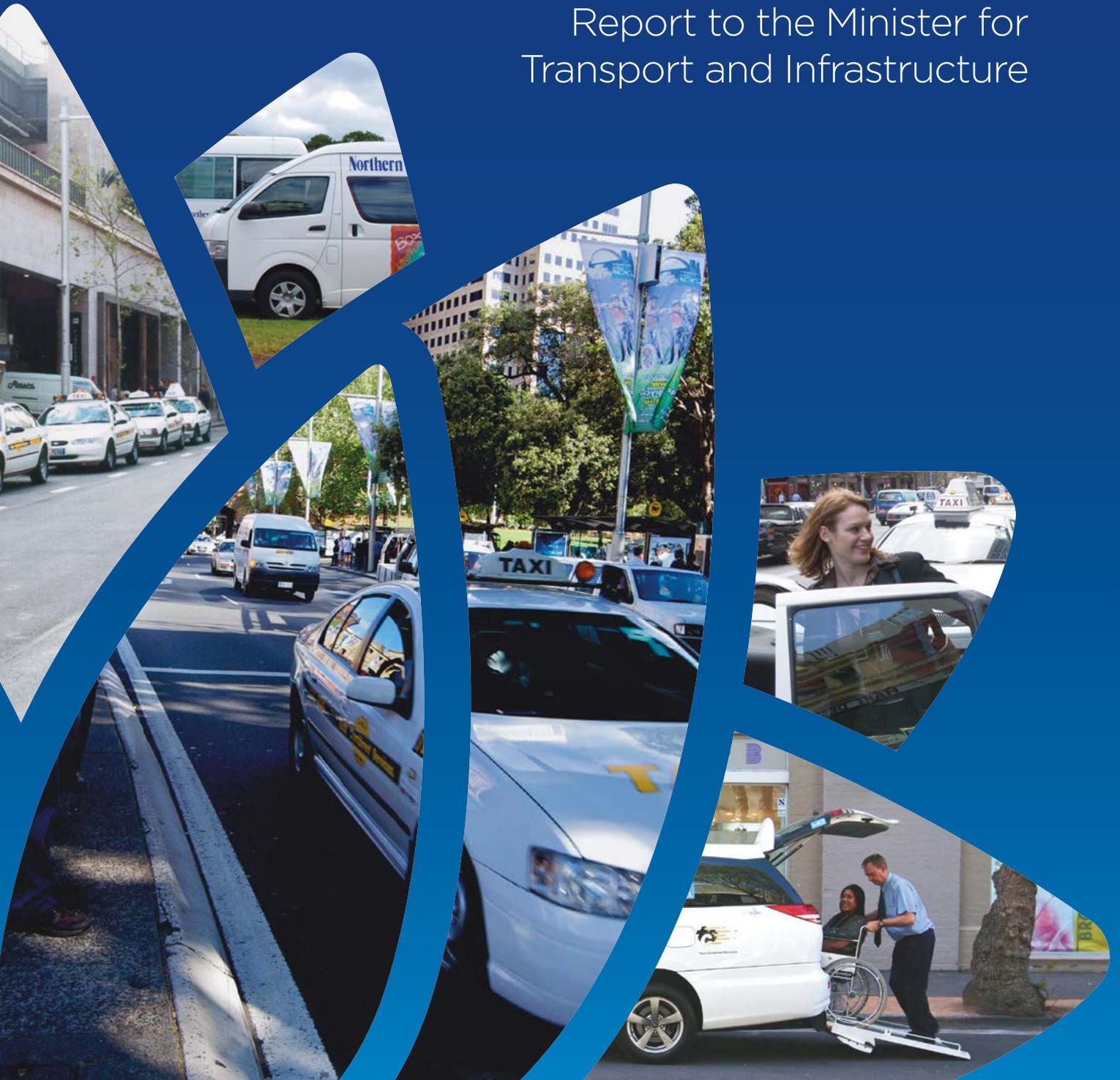


Point to Point Transport Taskforce

Report to the Minister for
Transport and Infrastructure



Contents

Executive summary	4
<hr/>	
Recommendations	7
<hr/>	
New regulatory framework	7
Regulation of drivers for safety	7
Vehicle safety and security	8
Insurance	9
Fares	10
Service Quality and Innovation	10
Supply	11
Transport disadvantage	11
Compliance and enforcement	12
Transition	13
Background and consultation process	14
<hr/>	
List of abbreviations	15
<hr/>	
1. A new regulatory framework	16
<hr/>	
Introduction	16
New regulatory framework	25
2. Safety regulation relating to drivers	32
<hr/>	
Recommendations	32
A new regulatory framework for the regulation of driver safety	33
Standards relating to driver licensing and driving history	34
Criminal history	37
Special requirements for taxi drivers	40
Consistent application of road transport legislation	42

3. Vehicle safety and security	44
Regulation of point to point vehicles for safety and security	44
Recommendations	44
A new regulatory framework for vehicle safety and security	45
Vehicle registration and roadworthiness	45
Security measures for taxis	50
4. Insurance	57
Recommendations	57
Compulsory third party insurance (CTP) Insurance	57
5. Fares	65
Recommendations	65
Fares for booked services	65
Regulation of fares for rank & hail services	67
Taxi meters	71
Receipts	72
6. Service quality and innovation	74
Recommendations	74
Customer choice and reputational incentives	75
Prescriptive regulation and consequences for service quality	76
Removing regulation of service quality	77
7. Supply	85
Recommendations	85
Supply of booked-only services	86
Supply of taxi services	87
Operating areas	93

8. Transport disadvantage	95
Recommendations	95
Contracting with service providers	96
Universal service obligations for taxis	98
Assistance to people with disabilities	101
Specific measures for wheelchair accessible taxi services	103
A provider-neutral scheme for services for people with disabilities	109
Disability standards for accessible public transport (DSAPT)	110
9. Compliance and enforcement	111
Recommendations	111
Compliance regime	111
Promoting compliance	112
Dealing with non-compliance	112
Regulator capabilities	113
Penalties	114
10. Transition	115
Impact of proposed changes	115
Impacts for customers	116
Impacts for drivers	117
Impacts for taxi operators	119
Impacts for taxi networks	120
Impacts for owners of taxi licences	120
Proposed solution	122
Hardship assistance	130
Sources of funding for adjustment assistance	130
Other forms of transition support	130
Appendix 1 – The taskforce’s Terms of Reference	132
Context	132
Terms of Reference	132

Executive summary

The point to point transport industry is facing a number of fundamental challenges and has entered a period of transformation. New entities have begun providing services, disrupting traditional business models. The way services are delivered to customers has fundamentally changed.

The market for booked services has been revolutionised by new booking, tracking and payment technologies, and there is the prospect of radical innovation on an ongoing basis, with new service models that will more effectively meet the needs of individual customers, better manage peaks and troughs, and generally deliver better value for service users. Ridesharing is only the leading edge.

Disruption in the point to point market will be even more profound with the advent of driverless cars, already being trialled in a number of major cities around the world and soon to be tested in South Australia and potentially other jurisdictions around Australia.

The warm response of customers to ridesharing provides us with some idea of how the Australian public will respond to these new service offerings, and it seems unlikely that governments will want to hold them back.

It will not be enough, however, to graft ridesharing provisions onto the existing regulatory structure. That would preclude the possibility of further innovation in the booked services market from entrepreneurs with entirely different service models. The National Roads and Motorists Association (NRMA) has signalled its potential interest in becoming involved in the facilitation of booked services, and while it has not provided any details of its business model, it seems likely that it would differ in significant ways from the one offered by Uber.

Simply amending the law by creating a new category for ridesharing would lock existing point to point providers, particularly the taxi industry, into an outdated regulatory framework and business model that would make it much more difficult for them to compete.

The booked services market must be liberalised to facilitate the emergence of these new service models and to take full advantage of the new booking, tracking and payment technologies.

There will be much less disruption in the short-term to the rank & hail market, which is almost four centuries old and relies exclusively on physical access by the passenger to engage the service. There will still be a need for government to manage supply to maintain the virtual ubiquity of taxis on which that model depends, but it is vital that the taxi industry is liberated from the regulatory constraints that are making it difficult for providers to adapt.

The point to point transport industry exists to serve its customers. The financial wellbeing of providers and the convenience of the regulatory regime for existing participants in the industry are secondary considerations, and our primary concern has been the impact of technology, regulation and industry structures on the welfare of consumers.

We propose that the booked service market should be opened to all providers who comply with basic regulatory conditions designed to ensure the safety and security of passengers and drivers. The law does not need to distinguish between services that are ordered well in advance and those that are booked for immediate use. Individual service providers may choose to specialise in particular service models, but that is not a matter for the law.

In the booked service market, there is no need for government regulation of fares, the specification of livery, or the installation of safety cameras, duress alarms and fixed GPS systems. The act of booking enables customers to reject a fare they regard as unacceptable, and the associated electronic or documentary record provides a high level of reassurance around security that is not so easily obtained with rank & hail services.

The prospect of repeat business in booked services means that reputational incentives are particularly effective in regulating safety and service quality.

The situation is significantly different with rank & hail. The anonymity of the parties, the improbability of repeat business with the individual driver, the weakness of corporate brands in some parts of the market, and the virtual invisibility of both passenger and driver once the journey is underway mean that government must play a much more intrusive role in regulating for safety.

Passengers have a limited opportunity to negotiate the fare when hailing a cab, and customers unfamiliar with the system are vulnerable to exploitation, so there is a strong case for some fare regulation.

The public transport qualities of the rank & hail market, in particular the need to ensure that there is virtual ubiquity, mean that government must also play a role in managing supply. Only appropriately regulated vehicles and providers, known as taxis, should be permitted to offer rank & hail services, a principle that regulators must vigorously enforce in the interests of passenger and driver safety.

To ensure that existing point to point providers, and particularly the taxi industry, are capable of responding to competition in booked services, the taskforce is proposing fundamental reform of the regulatory framework.

The primary regulatory and service responsibilities will rest with four entities: booking services (which receive bookings and dispatch vehicles), taxi organisations (the entities through which rank & hail services will be offered), drivers, and vehicle owners. Individuals or firms may perform more than one of these functions, and more than one entity may be held responsible for a failure to comply with the law.

Under our proposed model, the Government will specify the requirements for driver and vehicle safety, but industry participants will be responsible for ensuring that these requirements are met, and will have flexibility in how they exercise this responsibility, subject to audit and enforcement by the regulator.

Quality must be the responsibility of booking services and taxi organisations, as well as owners and drivers, and regulations which shift the responsibility from industry to government must be repealed. However, we recognise that in significant parts of the rank & hail market (and in some parts of the booked market), corporate brands are not strongly differentiated or effective at driving quality customer outcomes. Taxi organisations will be obliged to identify their names and contact details on the exterior of their vehicles, although greater freedom will be given as to how this is done.

We recognise that there will need to be significant change to the structure and operation of the industry, and the taxi industry in particular, to ensure that providers accept responsibility for service quality. Taxi networks have already begun to respond to the challenge, although government also has an important role to play in creating the appropriate incentives, and facilitating the transition.

Passengers must be educated about the importance of discriminating between taxi organisations, not necessarily taking the first cab at the rank, and selecting their taxis based on past experience and brand reputation.

In order for the taxi industry to respond to this new competitive environment, it is essential that there is a reduction in the regulatory and cost burden under which it currently strains. We propose that ordinary (or perpetual) taxi licences are converted to annual licences (with the option of renewal each year for a further nine years). This will substantially reduce the cost of leasing licences, and enable taxi operators to reduce the cost of fares. It will have an immediate impact on the value of licences, and we have proposed that there should be partial but significant financial assistance to assist with the adjustment.

At the same time, the taxi industry should have greater control over setting prices for customers and, to that end, the fares for booked taxi trips should be deregulated, with the price set by the booking service through which the customer has arranged the trip. For rank & hail trips, taxi organisations should be able to set and display their own fares, and employ dynamic pricing to cope better with peaks and troughs. There will continue to be a maximum set by government to prevent gouging.

The current legislative and regulatory framework entrenches a rigid approach to questions of safety and security, particularly for the taxi industry, and stifles innovation in service delivery. As a matter of course, regulatory requirements should be risk-based and outcome-focused, with the industry responsible for how they are implemented, subject to audit and inspection.

Given the role that information and communications technologies will play in the development of these new business models, it is essential that the regulator adapts its approach, including the provision in real time, of access to criminal charge information and driver licensing and vehicle registration information.

Cooperatives and networks must be opened to greater competition from within the rank & hail market, and taxi operators must be given the freedom to develop new business models. We are proposing that taxi operators no longer be required to belong to a network, and to the maximum extent possible, regulatory and funding biases in favour of incumbents must be eliminated.

Point to point transport services are particularly important to those who do not live close to bus and train networks, and for people with a disability. Where government does need to intervene to address the needs of these groups, we have argued against the imposition of universal service obligations, which tend to favour incumbents in the point to point industry, in favour of direct government payments through community service obligations. Wherever possible, subsidy schemes should be neutral between different kinds of provider.

The emergence of the so-called collaborative economy is creating new challenges for traditional regulatory and social insurance arrangements, where boundaries that have long been maintained between private and commercial activities are quickly losing their meaning. In the point to point market, this is evident in vehicle registration and compulsory third party insurance. While ridesharing may be the pioneer in this regard, we expect that it will not be alone, and governments must begin now to develop a sustainable response to this challenge.

It has long been recognised by policymakers that the regulatory arrangements governing the point to point transport sector needed to change, and it would have been preferable if the substantial changes recommended in this report could have been introduced over a longer time period. That option is no longer available.

We acknowledge that the introduction of our proposed regulatory approach will be extremely challenging for some parts of the industry, and for that reason we have argued that government must play a role in facilitating the transition.

Recommendations

The following is a comprehensive list of the recommendations that we have made throughout the report.

New regulatory framework

The taskforce recommends that:

1. The future regulatory framework of point to point transport services be outcome-focused, promote cost-efficient and innovative service delivery, and a diverse range of services and service delivery models. It should move away from mandating the use of specific technology.
2. The regulatory framework not cover those services currently not covered by the *Passenger Transport Act 1990* or proposed to be covered by the *Passenger Transport Act 2014*.
3. The regulatory framework apply to services in vehicles with 12 seats or less, including the driver; public passenger services provided in vehicles with more than 12 seats (including the driver) would be captured by regulations governing buses.
4. The only distinction between point to point transport service types delivered in small passenger vehicles be whether they are booked by the customer, or they are hailed or hired from a rank.
5. The definition of a booking should permit immediate bookings, but require the keeping of sufficient records to establish the identity of the customer, the origin and destination, and the time and date of travel.
6. The regulatory framework be risk-based and establish clear accountabilities for safety outcomes. Responsibility for mitigating or eliminating risks should be placed with those entities that have the management, control, influence and information to fulfil that obligation. It should also incentivise those entities whose brand is associated with the service to take greater accountability for safety outcomes.
7. The regulatory framework be based around entities with four essential functions in the provision of point to point transport services, being booking services, taxi organisations, vehicle owners and drivers. This regulatory framework should impose specific obligations on any person or organisation performing those functions, regardless of whether they are authorised or not.
8. Booking services and taxi organisations be required to be authorised by the regulator and that the requirements for authorisation be proof of identity and criminal history checks of nominated managers and directors.

Regulation of drivers for safety

9. The taskforce recommends that the current driver authorisation scheme be replaced by a system which gives taxi organisations and booking services greater flexibility to determine how standards are met.

Standards for driver licence tenure, driving history and medical fitness

The taskforce recommends that:

10. The requirement for a point to point driver to hold an unrestricted NSW driver licence and to have held an unrestricted Australian driver licence for 12 months in the past two years be retained.
11. The age requirements for point to point drivers not be addressed in this regulatory regime, as this is covered by the Graduated Licensing Scheme under road transport legislation.
12. Driver medical fitness requirements be administered as part of the driver licensing regime.

13. To facilitate the industry's fulfilment of their regulatory obligations, the future regulatory framework include an express provision to allow the regulator to share vehicle registration, licensing and criminal charge information in real time with booking services and taxi organisations. To enable this, improvements to Roads and Maritime Services (RMS) data systems should be made.
14. The regulator be resourced to ensure that it receives real-time information from NSW Police about charges laid against point to point drivers to facilitate the industry's fulfilment of their regulatory obligations.

Other standards for drivers

The taskforce recommends that:

15. Categories of criminal and other offences which disqualify a driver from driving a point to point vehicle be clearly defined in the regulation.
16. Drivers of all wheelchair accessible vehicles (not just taxis) be required to meet a certain level of competence in the safe loading, restraint and unloading of customers in wheelchairs, with industry having flexibility to determine how this obligation is met.
17. The requirement of a point to point driver to inform the regulator that they may lawfully work in Australia be removed.

Special requirements for taxi drivers

The taskforce recommends that:

18. The National Minimum English Standard be retained for Sydney taxi drivers. However, prospective drivers should no longer be required to pass an English language assessment to prove they meet the standard. Instead, a taxi organisation should be given flexibility to determine how to satisfy itself that a driver meets the standard.
19. Taxi organisations be required to take steps to assure customers of the identity of the driver in a secure and safe way. The Government should not prescribe how taxi organisations fulfil this obligation.
20. Requirements relating to driver worksheets be removed.

Consistent application of road transport law

The taskforce recommends that:

21. Drivers covered by the proposed regulatory framework who meet the other requirements of the professional driver scheme be permitted an extra demerit point.
22. All people driving point to point vehicles be subject to the requirement that they must have a blood alcohol concentration of below 0.02.

Vehicle safety and security

23. The taskforce recommends that there be no requirement for vehicle owners to be authorised by the regulator.

Registration and roadworthiness

24. The taskforce recommends that:

- The standard for vehicle roadworthiness for point to point vehicles be retained, that is, the standard required for passenger vehicle registration.

- The requirement that all maintenance is undertaken by a licensed mechanic be retained.
- Inspection requirements for registration purposes of all vehicles used for point to point transport be aligned to those of other light vehicles.
- Vehicle registration categories be revised in light of the flexible use of vehicles across different categories of registration enabled by technology and the collaborative economy. As an initial step, guidelines for defining “private use” should be developed and vehicle owners should be required to nominate at registration that their vehicle is being used for point to point services.
- Registration processes for point to point transport vehicles be updated with a view to removing the requirement for regulatory number plates and to reduce red tape more broadly for industry participants.

Vehicle security for rank & hail

25. The taskforce recommends that:

- The requirement that taxis have four side doors be retained.
- A vehicle used to provide rank & hail services be readily identifiable as a taxi. It should be a serious offence for anyone to represent that they are providing a taxi service if the vehicle is not a licensed taxi with the relevant security features.
- Working security cameras continue to be required in any taxi providing rank & hail services in NSW.
- Vehicle tracking devices and duress alarms (or their equivalents) continue to be mandated in taxis providing rank & hail services in Sydney, Newcastle, Wollongong and the Central Coast. Elsewhere in NSW, taxi organisations should determine if this equipment is needed, based on an assessment of risk.
- The requirement for a boot release device not be retained.
- The specifications for security equipment in taxis be revised as a matter of priority, with a view to making them outcome-focused and flexible.
- Mandated inspections by entities nominated by regulation (ATIS examiners), and certification that security equipment has been checked, be removed, noting that obligations to ensure that vehicles are roadworthy and secure are to be placed on the booking service, taxi organisation and vehicle owner.

Insurance

The taskforce recommends that:

26. The Government’s review of profits and competition in the CTP insurance market be released as soon as possible.
27. The framework for establishing CTP cover for point to point vehicles be reviewed in recognition of the more flexible use of vehicles across the current classifications, to consider a system that better rewards safer behaviours.
28. All point to point vehicles be required to have a third party property damage insurance policy which indemnifies the driver to a minimum level of coverage, to be determined in consultation with stakeholders. In the meantime, the existing level should be maintained.

Fares

The taskforce recommends that:

29. Fares for booked taxi services be substantially deregulated to bring them into line with other booked services.
30. All booking services be required to offer a potential customer an estimate of the total fare for the customer's journey before a booking is confirmed. The potential customer should also be informed about whether and how the final fare payable may vary from the estimate provided.
31. The Government continue to determine the **maximum** fare components (flagfall, distance rate and waiting time rate) and other charges for rank & hail taxi journeys.
32. Taxi organisations be allowed to set and be required to display fares and charges that are at or below the regulated maximum. They should also be allowed flexibility about when they apply peak vs. off-peak fares. Further, some charges should be removed or substantially deregulated:
 - Rank & hail services should no longer be allowed to charge a return toll for one-way journeys using the Sydney Harbour Bridge and Sydney Harbour Tunnel.
 - While a cleaning fee should be chargeable if a customer soils a taxi, this amount should be set and displayed by the taxi organisation.
33. Fares and charges for rank & hail services be calculated on a device using the rates displayed by the taxi organisation. The Government should remove prescriptive requirements for the equipment used to calculate the applicable fares and charges. Any regulation of this equipment should be flexible and outcome-focused.

Service Quality and Innovation

The taskforce recommends that:

34. Responsibility for service quality including of drivers, vehicles and any ancillary customer services, rest with taxi organisations and booking services.
35. Regulations on the quality of point to point transport services be removed, including those covering:
 - The presentation, conduct and training of drivers.
 - Testing relating to the geographic knowledge and understanding of the regulation by the driver.
 - Specifications for vehicles used to deliver point to point transport services.
 - Vehicle inspections for quality and comfort standards.
 - Maximum age limits for vehicles used to deliver taxi services.
 - Restrictions on advertising in or on a taxi, as long as a potential customer is able to easily identify that the vehicle is a taxi and the name and contact details of the taxi organisation.
 - Reporting of key performance indicators.
 - Management of customer feedback and lost property.
36. In the interim, to assist industry and customers during the transition to the new arrangements, the regulator should maintain a centralised feedback system for taxis, and give taxi organisations and booking services access to the system to enable them to respond to any customer feedback and make informed decisions about drivers who provide services under their brand.

Supply

The taskforce recommends that:

37. There be no restrictions imposed on the supply of booked-only service providers or vehicles. Further, any government-imposed fees for the authorisation of industry participants should be charged on a consistent basis (e.g., per vehicle, per entity, or per km travelled). These fees should reflect the efficient cost of regulating the booked point to point transport industry, except in the case where the Government chooses to recover costs associated with any industry adjustment package.
38. There be no increase in the number of non-wheelchair accessible taxi licences in Sydney. These arrangements should be reviewed over the next four years as the new regulatory arrangements are put in place.
39. There be no new ordinary taxi licences and short-term licences issued outside Sydney. The Government should instead offer, through a periodic tender process, a small number of annual taxi licences that can be used anywhere in the state outside Sydney.
40. Existing ordinary taxi licences be converted to transferable annual licences that are renewable up to nine times.
41. Taxi licences and their conditions be changed to achieve both greater consistency across licence categories and compatibility with the new regulatory framework. Conditions for WAT licences to be operated using a wheelchair accessible vehicle should be retained. Conditions which restrict Peak Availability Licences to operating at specific times should also be retained, at least in the short term.
42. Any area-based restrictions on the operation of booked services, including booked taxi services be removed. The existing operating boundaries for rank & hail services should be reviewed over the next four years as the new regulatory arrangements are put in place (including arrangements for some increase in taxi licences outside Sydney).

Transport disadvantage

The taskforce recommends that:

43. Greater consistency in funding timeframes, tendering requirements and contract specifications for various point to point transport programs (for example, the Assisted School Travel Program, community transport programs and some aspects of non-emergency patient transport) be pursued. Consideration should be given to consolidated contract management to improve coordination and efficiency in service provision, reduce compliance costs and provide greater certainty for point to point providers.
44. The following universal service obligations (USOs) relating to services provided in taxis be removed:
 - The obligation on taxi drivers to accept all hirings when offered
 - The obligation on booking services for taxis to provide coverage throughout the licensed area 24 hours a day, 7 days a week, and
 - The obligation on booking services for taxis to ensure that 10 per cent of taxis in their taxi fleet be required to carry a child restraint.
45. Larger taxi organisations and booking services (for example, those with 20 or more vehicles in their fleet) be required to provide de-identified trip data to Transport for NSW as a way of monitoring whether all areas or all customer groups are receiving services, and to inform other policy and transport planning decisions. If there are identifiable groups of customers who experience a significant negative impact, the Government should consider subsidising services through transparent and properly costed community service obligations (CSOs).

46. The obligation on wheelchair accessible taxis to be available for hire 10 hours a day and the prohibition on the changeover of their drivers between midday and 5pm each day, be removed.
47. The Government investigate how best to ensure booking services for customers requiring wheelchair accessible services can be effectively delivered. Over the short term, the requirement for wheelchair accessible taxis to affiliate with the centralised booking service should be retained, but the Government should directly subsidise the cost of that service (currently met by operator affiliation fees) as an explicit CSO.
48. In relation to the funding for the Taxi Transport Subsidy Scheme and the incentives available for wheelchair accessible services, the Government, as a matter of priority, move to a service provider-neutral transport subsidy scheme for people with disabilities. In doing so, it should examine:
 - The viability of wheelchair accessible services given the higher capital and running costs associated with providing these services, and
 - The effectiveness and adequacy of passenger subsidies and other incentives for the provision of services to all people with disabilities, with a view to directly subsidising some aspects of service provision, where necessary.As a transitional measure, the existing subsidies and incentives should remain in place.
49. Given the changes taking place in the point to point transport industry, the NSW Government approach the Commonwealth and other jurisdictions about consistency in application of the Disability Standards for Accessible Public Transport (DSAPT) across industry participants and the appropriateness of current or proposed standards.

Compliance and enforcement

The taskforce recommends that:

50. The future regulatory framework:
 - Provide the regulator with powers to promote and monitor compliance and a range of instruments and penalties to enable it to respond to cases of non-compliance in a manner which is appropriate to the circumstances and in proportion with the risk presented.
 - Enable auditing of the systems and processes that taxi organisations, booking services and vehicle owners use to ensure that they comply with their obligations, to require them to retain records of compliance with their obligations, and to make all such records available to the regulator.
 - Include a requirement that any records that must be kept under the proposed regime be retained in NSW and establish an appropriate extraterritorial jurisdiction provision.
 - Include facilitation of a contravention of the law as an offence.
51. The regulator:
 - Develop the capacity of its compliance and enforcement staff to ensure they have the skills and knowledge to effectively undertake its functions under the proposed regime, and
 - Develop and publish a compliance and enforcement policy.
52. The penalties under the proposed regime be set to effectively deter all industry participants from contravening the law.

Transition

The taskforce recommends that:

53. A transitional assistance office be established to provide advice, education and support to industry participants (in particular, taxi operators).
54. Ongoing education and guidance be provided to industry participants about their obligations under the regulatory framework.
55. Transport for NSW develop a public education campaign about how the changes will affect customers.
56. The Government provide transitional assistance to the owners of perpetual taxi licences, based on equity and hardship grounds; financial assistance to other industry participants is not recommended.
57. As part of any adjustment assistance package:
 - A significant level of transitional assistance be provided to current owners of taxi licences to partially offset the expected reduction in income from the licences resulting from converting ordinary taxi licences to transferable annual licences
 - A hardship fund be established to provide assistance to licence owners especially adversely affected, such as those at or near retirement with few other assets or sources of income
 - A panel be established to assess any applications for assistance from the hardship fund and make determinations about any assistance to be given to applicants.

Background and consultation process

Background

On 1 July 2015 the Minister for Transport and Infrastructure, the Hon. Andrew Constance MP, announced an independent taskforce to examine the future sustainability of taxis, hire cars and other emerging point to point transport providers in NSW, including ridesharing apps. The Minister appointed Professor Gary L. Sturgess AM to Chair of the taskforce, and Dr Tom Parry AM as Deputy Chair.

In light of the impact of technological change on the point to point transport market, the taskforce was asked to consider whether there should be any change to the regulatory framework in NSW, with the aim of maximising customer outcomes and economic productivity.

The taskforce was to consider and make recommendations to the Minister for Transport and Infrastructure covering the following areas:

- the safety and security of customers and drivers
- the sustainability of commercial passenger transport
- economic productivity, consumer protection and the availability of appropriate services for people with a disability and other groups facing transport disadvantage
- efficient and effective administration and enforcement of passenger transport legislation and minimising the regulatory burden on industry
- the impact on existing investment in the industry, and possible mechanisms to deliver an industry adjustment package, if necessary
- any other relevant matters.

The taskforce's full terms of reference are included at Appendix 1.

Consultation

We held initial consultations during July and August 2015 which involved meetings with industry and community stakeholders in Sydney, Bathurst, Nowra, Dubbo, Tamworth and Coffs Harbour. In all, we heard the experience and views of hundreds of people representing more than 140 businesses and organisations.

The taskforce then released a discussion paper in late August 2015, which outlined the way point to point transport services currently operate and invited the community's views on what was working and what needed to change. Feedback received at the July and August consultation meetings informed the issues raised in the paper.

Submissions closed 25 September 2015. More than 5,600 individuals, organisations and businesses shared their views on point to point transport with the taskforce. There were more than 5,000 organised campaign letters, more than 400 of which included additional comments.

The taskforce has published submissions on its website in line with its stated policy, which included an assessment of length, content, appropriateness and confidentiality. The information and views of respondents are reflected in this report and have helped shape the recommendations to the Minister.

We extend our thanks to the many individuals, businesses and organisations who took time to either meet with the taskforce or to provide submissions, and to the team of dedicated public servants who provided support and advice to the taskforce.

Gary L. Sturgess AM

Thomas G. Parry AM

List of abbreviations

Acronyms

ABN	Australian Business Number	M40	Taxi Transport Subsidy Scheme participant who uses standard taxi
ACT	Australian Capital Territory	M50	Taxi Transport Subsidy Scheme participant who uses a wheelchair accessible taxi
AMES	Adult Migrant English Service	NCOSS	New South Wales Council of Social Service
ANCAP	Australasian New Car Assessment Program	NSW HCA	New South Wales Hire Car Association
API	Application Programming Interface	NCAT	New South Wales Civil and Administrative Tribunal
App	Smartphone application	NDIS	National Disability Insurance Scheme
ASAP	As soon as possible	NMES	National Minimum English Standard
ATDA	Australian Taxi Drivers Association	NRMA	National Roads and Motorists Association
ATIS	Authorised Taxi Inspection Station	PDCN	Physical Disability Council of NSW
CBD	Central business district	P2P	Point to point
CHSP	Commonwealth Home Support Program	RMS	Roads and Maritime Services
CIE	Centre for International Economics	SCIA	Spinal Cord Injuries Australia
CSO	Community service obligation	SFARP	So far as reasonably practicable
CTO	Community Transport Organisation	SIRA	State Insurance Regulatory Authority
CTP	Community Transport Program	SMTD	Sydney Metropolitan Transport District
CTP insurance	Compulsory third party insurance	the 1990 Act	The <i>Passenger Transport Act 1990</i>
DC	United States District of Columbia	the 2014 Act	The <i>Passenger Transport Act 2014</i>
DSAPT	Disability Standards for Accessible Public Transport	TTSS	Taxi Transport Subsidy Scheme
GEICO	Government Employees Insurance Company	TfNSW	Transport for NSW
GPS	Global positioning system	UberWAV	Ridesharing service provided in wheelchair accessible vehicle
GST	Goods and Services Tax	UberX	A ridesharing service in NSW
GVM	Gross vehicle mass	USO	Universal service obligation
IAG	Insurance Australia Group	WAT	Wheelchair accessible taxi
ICA	Insurance Council of Australia		
IPART	Independent Pricing and Regulatory Tribunal		
KPI	Key performance indicators		
LGA	Local Government Area		
MAA	Motor Accidents Authority		

1. A new regulatory framework

The taskforce recommends that:

1. The future regulatory framework of point to point transport services be outcome-focused, promote cost-efficient and innovative service delivery, and a diverse range of services and service delivery models. It should move away from mandating the use of specific technology.
2. The regulatory framework not cover those services currently not covered by the *Passenger Transport Act 1990* or proposed to be covered by the *Passenger Transport Act 2014*.
3. The regulatory framework apply to services in vehicles with 12 seats or less, including the driver; public passenger services provided in vehicles with more than 12 seats (including the driver) would be captured by regulations governing buses.
4. The only distinction between point to point transport service types delivered in small passenger vehicles be whether they are booked by the customer, or they are hailed or hired from a rank.
5. The definition of a booking should permit immediate bookings, but require the keeping of sufficient records to establish the identity of the customer, the origin and destination, and the time and date of travel.
6. The regulatory framework be risk-based and establish clear accountabilities for safety outcomes. Responsibility for mitigating or eliminating risks should be placed with those entities that have the management, control, influence and information to fulfil that obligation. It should also incentivise those entities whose brand is associated with the service to take greater accountability for safety outcomes.
7. The regulatory framework be based around entities with four essential functions in the provision of point to point transport services, being booking services, taxi organisations, vehicle owners and drivers. This regulatory framework should impose specific obligations on any person or organisation performing those functions, regardless of whether they are authorised or not.
8. Booking services and taxi organisations be required to be authorised by the regulator and that the requirements for authorisation be proof of identity and criminal history checks of nominated managers and directors.

Introduction

Point to point transport is dominated by a service model which first emerged in London in the early 17th century, and has remained largely unchanged ever since. The hackney carriage – still the official term for a taxi cab in London – is a passenger vehicle that ‘plies’ (or makes itself available) for hire by the general public, either by waiting at a designated rank or by allowing itself to be hailed in the street. It is a service model that retains its utility in a number of international cities to this day, including London, New York and Sydney.

The invention of the telephone and mobile radio networks opened up new ways of accessing taxi cabs, and the process of booking was further transformed with the advent of mobile telephony and the revolution in information and communications technology, in particular the internet, which began in Australia in the late 1980s and early 1990s. The taxi industry adjusted to these technological challenges by adding booked services to their rank & hail business, but at its heart, the industry did not change, and has continued to this day to be dominated by the hackney carriage model of delivering service.

The advent of booking technologies had created the opportunity for entirely new service models that are capable of much greater flexibility and adaptability than rank & hail. The prospect of booking opened up taxi services to people at home in the suburbs, to company executives wanting a car to be waiting for them at a designated time and place, to individuals with a disability who could not easily hail a taxi in the

street or make their way to a rank a block and a half away. And with recent advances in technology, it has reduced the transaction costs involved in organising a car to collect multiple passengers from different locations, for the first time making car-pooling feasible.

The emergence of ridesharing platforms such as Lyft and Uber has made it clear that the booked service market has a great deal more flexibility and potential for innovation than the hackney carriage model ever did. There is no obvious reason why the taxi industry should not be able to adapt, yet again, to exploit new technologies, develop new business models and open up new sources of demand for booked services.

There are several reasons why the taxi industry is experiencing difficulty in doing so. Foremost among these is the challenge of moving away from the hackney carriage model in its service offerings, the underlying structure of the industry and the regulatory framework.

One of the greatest challenges faced by the taxi industry is significant peaks and troughs in demand. These different levels of demand are difficult to manage, in part because of the need to manage the supply of vehicles engaged in rank & hail services, in part because of the high barriers to entry and exit due to the fixed costs associated with fitting out a taxi so that it is safe and secure, and in part because of fare regulation that has made it difficult to respond to changes in demand.

The “ply for hire” service model, reinforced by the existence of a government-sanctioned tariff and a metered journey, seems to have prevented many taxi operators from negotiating with government and corporate clients for block business. Networks, operators and drivers have been reluctant to invest in the equipment, technologies and capabilities that would enable them to address the needs of customers with particular needs, such as people with a disability.

Rank & hail services are largely anonymous, with very limited prospects for repeat business. In some parts of the Sydney market, corporate brand and reputation have been ineffectual. Customers believe that they must take the first cab off the rank rather than selecting a car or a service that meets their needs. Restraints on livery and advertising have made it difficult for businesses to distinguish their services.

Governments have assumed some of the responsibility for regulating quality, and networks and operators have lacked the incentives (and in some cases, it is claimed, the capacity) to manage drivers. Networks, the organisations with the strongest brand, have had few incentives to actively manage relations with customers.

Unintentionally, governments created a market for perpetual taxi licences that has seen their value soar to as high as \$425,000 in Sydney in recent years and even higher in some regional centres. Taxi licences contribute nothing to the delivery of better customer service, and yet they add around \$27,000 a year to the cost of operating a taxi, and around 20 per cent to the cost of a fare.

The evolution of the industry over time, reinforced by government regulations, has locked the industry into a four-tier structure of network, operator, licensee and driver, with each of these layers trying to make a profit out of the customer. It now finds itself competing with a disruptive new business model that has one and a half layers and, unsurprisingly, it is finding it difficult to compete.

Prescriptive and, in some cases, unnecessary regulations have significantly reduced the flexibility of the industry to respond to customer need, and burdened operators and drivers with red tape that has further weakened their capacity to respond to new competition.

It is evident that the new booking, tracking and payment technologies are going to fundamentally transform the booked service market, and a range of different organisations, including the NRMA, have been giving serious consideration to alternative business models that might be constructed using these new technologies. The South Australian Government has announced that it will authorise trials of driverless cars, which have the potential to disrupt the taxi industry even more profoundly.

If there is not a substantial overhaul of the model through which the industry has historically been regulated, it will lack the flexibility to respond to these emerging challenges.

The taskforce recommends that the future regulatory framework of point to point transport services be outcome-focused, promote cost-efficient and innovative service delivery, and promote a diverse range of services and service delivery models. It should move away from mandating the use of specific technology. Reasons for our recommendations are outlined below.

Issues with the current regulatory framework

Adopting such a framework would involve a significant shift from the existing regulatory arrangements, some of which are unnecessary, some overly prescriptive, while others assume and/or specify particular business models and commercial relationships which limit how industry participants can meet customers' needs and ensure that safety outcomes are met.

The taskforce considers that the heavily prescriptive nature of the existing regulation has increased costs, particularly for taxi services. The high costs imposed on industry participants and ultimately customers, has meant that it is challenging for some in the industry to remain viable in a marketplace that is experiencing significant change. The imposition of universal service obligations on the taxi industry has had questionable benefits for customers, added further cost and reinforced the existing industry structure.

The Government currently regulates some aspects of point to point transport services, particularly taxi services, which the taskforce considers are most appropriately addressed by industry itself. Service quality is the most significant example.

The Government currently mandates detailed specifications and inspection requirements relating to the quality of the vehicle employed for taxi services and sets key performance measures for pick-up times for taxis booked through a network. There are detailed requirements relating to the presentation, conduct and training of taxi drivers.

There is a high cost of compliance associated with these quality requirements. Taxi drivers, for example, are required to wear an approved uniform and complete two training courses, much of which cover customer service. Taxi operators face significant costs in complying with Government requirements for vehicles to be used as taxis, including maximum vehicle age limits, minimum standards for the comfort and quality of the vehicle, frequent inspections, requirements in relation to the identification of the vehicle (such as livery, roof lights and signs), and limits on advertising in or on the vehicle.

Industry submissions noted the imposition that these costs represent. A taxi operator pointed out that it was unfair that vehicles to be used as taxis are expensive compared to the vehicles that may be used for ridesharing services.¹ We also received submissions recommending that the vehicle specifications for hire cars be removed.²

For the taskforce, the ultimate test of whether the regulation is effective is whether point to point transport is meeting customer expectations. It is clear to us that despite the detailed service quality requirements established in regulation, there are aspects of service quality with which customers are not happy.

Despite such prescriptive requirements, regular customer surveys conducted by Transport for NSW show that almost one in 10 customers is dissatisfied with on-time arrival and the smell in the taxi, and one in 20 customers is unhappy about the cleanliness of the taxi interior and the personal presentation of the driver.³

The taskforce agrees with Cabbixpress's submission to the taskforce which states that the "quality of service cannot be cost effectively regulated but it is best left to the market to reward or punish according to whether the delivery of the [point to point] transport service fulfils the customers' expectations".⁴

1 Atra family submission, p.4.

2 goCatch submission, p. 4, NSW Hire Car Association, p.9.

3 <http://www.transport.nsw.gov.au/sites/default/files/b2b/publications/customer-satisfaction-index-2014.pdf>

4 Cabbixpress submission, p.8.

We are of the view that should the NSW Government adopt our recommendations, there will be a diverse range of both booked and rank & hail services available, and industry participants will strive much harder to provide a quality customer service as a means of attracting new customers and ensuring repeat business. The taskforce considers that this approach, rather than prescriptive regulation, is the more effective way of ensuring customers receive good quality customer service. The recommended approach to ensuring quality services for customers is discussed in detail in chapter 6.

In other cases, the taskforce considers that the level of risk to passengers and drivers justifies Government intervention, but that the existing regulatory requirements are overly prescriptive, preventing industry participants from innovating in their style of management and the technology used, and imposing unnecessary costs. One such example is the requirement for security systems in vehicles used as taxis.

In its submission to the taskforce, the Independent Pricing and Regulatory Tribunal (IPART) noted that:

“... the current requirements for taxi vehicle identification, communication equipment, and vehicle monitoring, through both in-vehicle security cameras and remote tracking, would appear to achieve safety and security objectives, but those objectives could potentially be achieved more cost-effectively if the requirements were less prescriptive.”⁵

The taskforce agrees that the prescriptive requirements mandated by government have had the effect of preventing taxi operators from taking advantage of improvements in technology. One of the consequences is the cost of security is much higher than it could otherwise be. As noted by one operator “given the evolution of technology and proliferation of security equipment, security cameras should be reasonably priced. However, as a taxi operator I believe the amount paid for security cameras is still currently exorbitant.”⁶

The taskforce is not proposing to reduce the standard for security in any way, but to refine the standards for taxis so that they are not technology-specific, and allow industry to determine the most cost-effective means of ensuring the standard is met. The details of the taskforce’s approach are discussed in chapter 3.

In addition, detailed requirements regarding commercial relationships between industry participants have limited the ways that industry can organise itself to provide good quality and cost-effective customer service. The business model for taxi services that is specified in great detail in the *Passenger Transport Act 1990* (and to a similar extent in the 2014 legislation) has created and entrenched a fragmented industry structure that appears, from submissions, to demonstrate little accountability to its ultimate customers.

The driver bailment arrangement has meant that most taxi operators in Sydney receive the same revenue regardless of the quality of service delivered by their drivers. Similarly, as taxi networks receive income from taxi operators and not directly from customers, attracting and retaining affiliated operators may have been a greater focus for some networks than delivering quality customer service.

Likewise, the requirement of a taxi operator to belong to a network, with highly detailed legislative prescription relating to what features a network must have and what services it must provide, means that taxi operators do not have a choice about how they can best meet customer expectations.

Universal service obligations, such as requiring networks to provide services 24 hours a day, 7 days a week, make it harder for smaller networks to compete and forces those in regional areas to provide services when there is little, if any, demand, making them less economically viable (see chapter 8 on transport disadvantage).

The taskforce has concluded that, whatever good they may have done in the past, the imposition of these prescriptive standards is serving to hinder innovation unnecessarily, suppress diversity and increase the cost of service delivery.

5 IPART submission, p.10.

6 Atra family submission, p.6.

Risk-based regulation

The future regulation of point to point transport services should be outcome-focused and appropriate for the particular risk it is seeking to mitigate. Regulation that focuses on achieving particular outcomes is more likely to be effective and efficient, rather than policymakers, in consultation with incumbent industry participants, seeking to specify the individual steps that must be taken to achieve those outcomes. Any government fees should be set at the cost of efficient regulation.

Regulation of vehicle roadworthiness provides an example. Currently, vehicles that are used to deliver hire car and taxi services are required to pass an inspection for vehicle registration twice a year, while all other light vehicles are generally only required to be inspected annually, once the vehicle is older than five years. Even so, the taskforce has seen evidence that a significantly higher percentage of the urban taxi fleet have been issued defect notices by NSW than the rest of the light vehicle fleet.⁷

We are not proposing to reduce or diminish the standard for vehicle roadworthiness. But we agree with IPART's Licensing Framework in that "compliance should be monitored and enforced using a risk-based approach, and optimal compliance regimes involve targeted inspections rather than blanket inspections and exceptions reporting rather than periodic reporting".⁸

We recommend that rather than requiring frequent inspections of vehicles as a means of ensuring roadworthiness, an obligation be placed on the owner of the vehicle to ensure that the vehicle is roadworthy. Vehicle owners would have to undertake an assessment of their own particular circumstances, and determine what action is required to ensure they fulfil that obligation.

Owners are best placed to know what measures should be taken to ensure that their vehicles are safe, whether this involves the use of telematics to monitor braking and acceleration by drivers and minimise wear and tear, deploying collision avoidance systems, or more frequent servicing and vehicle replacement. While government will continue to set the required standard for roadworthiness, industry must be allowed to determine the most cost effective means of achieving that standard.

This regulatory approach is consistent with IPART's recommendation to "develop from first principles a regulatory framework for point to point transport" which:

- is outcome-focused and risk-based
- regulates similar services uniformly and differentiates in regulation only where there are significant differences in operation risks (e.g., by distinguishing between booked and unbooked services)
- assigns clear accountabilities with tools to monitor and enforce them where necessary (e.g., authorisation and accreditation)
- which addresses safety, security and consumer protection
- promotes competition
- does not create barriers to entry.⁹

IPART's recommendation is consistent with the NSW Department of Premier and Cabinet's Guidance for regulators to implement outcomes and risk-based regulation.¹⁰ The following section describes in more detail the regulatory approach recommended by the taskforce.

7 RMS data.

8 IPART submission, p.17.

9 IPART submission, p.4.

10 Department of Premier and Cabinet, *Guidance for Regulators to implement outcomes and risk-based regulation*, July 2014.

Which services should be regulated?

Public passenger services

We are not proposing to amend the definition of a public passenger service as contained in current NSW passenger transport law. A public passenger service is defined to be the carriage of passengers for a fare or other consideration:

- by motor vehicle (other than a light rail vehicle) along a road or road-related area, or along the whole or part of a transitway route, or
- by vessel within any NSW waterway.

We agree with the long-standing practice that a service needs to meet the following criteria to be considered a public passenger service. It must:

- comprise both the driver and the vehicle
- be available to the general public (not just to eligible clients, club members or hotel guests)
- carry passengers
- charge a fare or other consideration, and
- travel along a road or road-related area, if provided by a motor vehicle.

This means that services that are not currently regulated by the *Passenger Transport Act 1990*, or are not to be regulated by the *Passenger Transport Act 2014*, will not be covered by our proposed regulatory framework.

Courtesy bus services, because they usually do not charge passengers a fare nor provide services to the general public, should not be regulated by passenger transport law. The taskforce acknowledges the NSW Taxi Council's concerns that "the establishment of a courtesy bus in a small rural and regional town can render the taxi service unviable almost immediately and leave that town without an essential passenger transport service as a consequence".¹¹ We address the concerns relating to viability of taxi services in rural and regional towns in chapter 7.

However, we agree with the NRMA, Clubs NSW and the representatives of Liquor Accords that we met in the course of our consultations that courtesy services play an important role in the community, including reducing drink driving, and managing potential public safety issues in communities late at night.

"Courtesy transport services play an important role in reducing drink driving and improving local amenity around venues. These benefits must be the foremost consideration of the taskforce, and if anything, a greater prevalence of courtesy buses should be encouraged."¹²

"NSW Club Courtesy Buses are an important facet of member services which assist clubs in providing a service and in delivering on their RSA requirements. Many patrons of registered clubs are elderly and/or immobile and the Courtesy Bus provides an opportunity for these members of society to be granted access to the amenity the club provides and the on-flowing benefits such as social interaction."¹³

It is also not intended that the passenger transport law would capture National Disability Insurance Scheme (NDIS) participants using some of their funds to pay their carer or neighbour a token amount to take them to an appointment. Genuine carpooling arrangements where passengers travelling to a common destination contribute a small amount to cover the costs of the journey should also not be regulated under passenger transport law.

¹¹ Taxi Council submission, p.45.

¹² NRMA submission, pp.10-11.

¹³ Clubs NSW submission, p.1.

On the other hand, so-called “ridesharing” services should be regulated pursuant to the framework described below. The NRMA suggested that:

“... safety and operational requirements should apply to all pre-booked point to point transport taking fares for services, including ridesharing. Responsibility for compliance must rest with the entity that connects passengers with drivers – namely the booking network.”¹⁴

We agree with the NRMA, since ridesharing services are booked, and recommend that they be regulated in the same way as all other booked point to point services. There was general support for government regulation of ridesharing:

“The NSW Taxi Council believes the case for the regulation of illegal ridesharing services is very strong and the Government should act to address this issue quickly in order to protect the public interest.”¹⁵

“To create an even playing field, all operators and drivers involved in the service of public passenger transport, hire for reward, need to comply with the same standards and requirements.”¹⁶

“Regulation is essential – but it must be appropriate and adapted ... Regulations should focus on safety and quality outcomes rather than prescribing obsolete methods for obtaining those outcomes.”¹⁷

Which vehicles?

The existing regulations relating to vehicles are dependent on the type of service they are used to deliver. For instance, the same 12-seat vehicle may be used to deliver a taxi service, a hire car service or a tourist service, and in each circumstance it is currently subject to different safety requirements. As a matter of principle, the taskforce considers that vehicles of the same size delivering similar services should be subject to the same level of regulation.

There should be a clear distinction between point to point transport services using small passenger vehicles and those employing larger passenger vehicles or buses. The regulatory framework recommended by the taskforce would apply to services provided in vehicles with 12 seats or less, including the driver; public passenger services provided in vehicles with more than 12 seats including the driver would be covered by passenger transport law requirements for buses.

This approach appropriately manages concerns about safety. Buses are considered to have higher safety risks than other public passenger vehicles simply because they can carry more people. Advice from Transport for NSW suggests that in the last 10 years crashes in NSW involving small buses (less than 4.5 tonnes Gross Vehicle Mass) have declined at a faster rate than for buses overall.

This approach is consistent with NSW driver licensing which provides that a person with a C-class licence may drive a vehicle of up to 4.5 tonne Gross Vehicle Mass (GVM) that seats up to 12 adults. Drivers of vehicles above 4.5 tonne GVM must have a Light Rigid heavy vehicle driver’s licence and may drive a vehicle carrying more than 12 people. This approach is also consistent with the national heavy vehicle law which applies to vehicles above 4.5 tonne GVM.

The Community Transport Organisation (CTO) supported this approach, suggesting that:

“Aligning safety standards to licensing requirements for like vehicles would seem like a common sense approach. The creation of standards that overburden the operator or driver such as Bus driver standards for CT drivers may be considered excessive where vehicle mass and passenger numbers are not aligned with licence requirements.”¹⁸

14 NRMA submission, p.12.

15 NSW Taxi Council submission, p.21.

16 Motor Traders Association submission, p.9.

17 Uber submission, pp.3-4.

18 Community Transport Organisation submission, p.4.

The taskforce understands that there are currently around 30 hire cars and taxis that have more than 12 seats.¹⁹ Similarly, there are approximately 1,000 tourist and charter vehicles that have 12 seats or fewer, which are currently regulated as buses. These vehicles should be allowed to operate as they currently do for the life of the vehicle.

Booked versus rank & hail services

Our discussion paper proposed that the most significant difference between the types of point to point transport services is whether the customer books the service (by phone call, email or smartphone application, either in advance or for immediate pick-up), or whether the customer hails the service in the street or hires it from a rank.

After further consultation, and careful consideration of submissions, the taskforce has concluded that this distinction between booked and rank & hail services is the appropriate model upon which to base a future regulatory structure.

The taskforce's view is that booked and rank & hail services have different risk profiles which justify different regulatory approaches and we recommend that the only distinction between different types of point to point transport services delivered in small passenger vehicles should be whether they have been booked by the customer, or hailed in the street or hired from a rank.

This approach is consistent with the views of IPART, which stated in its submission that "regulatory requirements should generally be the same across modes and across areas - with exceptions for significant differences in risk to passenger or driver safety or consumer protection. The distinction between booked and non-booked services seems to be one such sensible distinction."²⁰

The NRMA also supported this approach, stating that it agreed "with the taskforce's distinction between booked and non-booked services, and the need to provide a more stringent standard of regulation for taxis due to the universality of rank & hail services and the anonymity of passengers".²¹

There was not universal support for this view. The NSW Taxi Council contended that ridesharing "is the same as taxi services and despite assertions to the contrary, the method of operation by ridesharing drivers is identical to that of taxi drivers".²² Although, the Taxi Council did also note that:

*"... if ridesharing is given access to the rank & hail market as well as the pre-booked market, then the regulatory framework needs to align with that which is in place for the NSW Taxi Industry. If, however, ridesharing is limited to the pre-booked market (private for hire), then the regulatory framework needs to be more aligned with the hire car industry."*²³

Uber suggested that:

*"... ridesharing does not engage in rank and hail work. That will remain the exclusive domain of taxis. Nor does it engage in the advance booking work characteristic of traditional hire cars. Ridesharing operates exclusively in the 'on-demand ready-to-ride' market."*²⁴

Uber believes that "ridesharing can be fairly regulated without disturbing the regulatory scheme applicable to other models in other markets".²⁵

We do not agree with Uber's assertion that ridesharing services are different from both taxi and hire car services in those qualities that are relevant for the purposes of regulation. There are a number of distinctive features about the process of booking: passengers can select an operator with a unique service offering (such as a wheelchair accessible vehicle), explain their own particular requirements (such as car seats for children), and negotiate about the fare.

19 RMS Data.

20 IPART submission, p.7.

21 NRMA submission, p.11.

22 NSW Taxi Council submission, p.20.

23 NSW Taxi Council submission, p.20.

24 Uber submission, pp.5,3.

25 Uber submission, p.5.

There is a documentary record, physical or electronic, of the engagement, and passengers who are pleased with the quality of the service can choose the same service (and, in some cases, the same driver) again. In these respects, there is no fundamental difference between ready-to-ride, as soon as possible (ASAP) bookings, and bookings made well in advance of the departure time, and as such, there is no case for a fundamental difference in regulatory approach.

Where a driver and vehicle are dispatched by a booking service for the purpose of conveying paying passengers they should be considered as providing a booked point to point transport service and should be regulated as such. The NSW Taxi Council appeared to agree that the means of booking a point to point service should not determine how the service is regulated:

“The booking systems used by ridesharing are consistent with those being used by both the taxi and hire car industries and therefore do not represent a valid argument for a specific regulatory categorisation. The technology used by ridesharing firms is just a means to an end for connecting a passenger with a point to point service vehicle. What is critical for the purposes of regulation is the underpinning systems that ensure public safety and reliability.”²⁶

We agree with the Taxi Council that safety is of critical importance. It is for this reason that there should be strict enforcement of the distinction between booked and rank & hail services: it is vital that in framing legislative and regulatory provisions, and in approaches to compliance and enforcement, that government makes it clear that this distinction is of fundamental importance for the safety of passengers and drivers.

There should be severe penalties for anyone who provides, or represents that they provide, rank & hail services when the service is not being provided in a licensed taxi with the relevant security equipment in full working order.

The NSW Hire Car Association agreed, recommending that:

“... there should be more extreme and severe consequences in cases where there is proven non-compliance such as loss of license and confiscation of vehicles for any hire car operator found to be breaking the law in regards to ‘rank and hail’ activities in regional or other locations. We feel this should also be the case for other non-compliant activities such as solicitation or ‘touting’ at airports and other public venues. The establishment and enforcement of such strong measures would greatly reduce non-compliance in our views.”²⁷

Other considerations

The taskforce considered whether to recommend the imposition of additional requirements relating to booked services. During consultation, a number of stakeholders suggested that point to point transport service bookings should be subject to a minimum pre-booking period (e.g., the booking must be made at least 30 minutes in advance of the intended departure time). Another view was that a point to point journey should be subject to minimum distance, time or cost requirements (e.g., each booked point to point journey must be for a minimum of 40 kilometres, or 40 minutes or a minimum cost of at least \$40.)

We firmly reject this approach. Such requirements would add cost and inconvenience for customers and reduce competition. It would require government to regulate against the new generation of booking technologies that facilitate the connection of drivers and passengers. It is evident that a significant number of point to point customers value this flexibility, and, in our view, government should not proscribe or limit the use of such technology unless it is absolutely necessary.

The underlying concern in maintaining the sharp distinction between booked services and rank & hail is to protect the passenger and driver from the risks associated with invisibility and anonymity, and booking apps – even when used in the street – provide a high degree of transparency. It is not only ridesharing providers that would be disadvantaged. In consultations in Western Sydney,²⁸ one hire car operator

²⁶ NSW Taxi Council submission, p.20.

²⁷ NSW Hire Car Association submission, p.8.

²⁸ Rooty Hill RSL, 17 August 2015.

told the taskforce that up to half of their work comes from ASAP bookings from city hotels. Imposing additional requirements to prevent hire cars from providing such services to city hotels would not have safety, security or consumer protection benefits and could only be justified as a form of protection against competition.

We recommend that the definition of a booking should permit immediate bookings, but that government should mandate the keeping of sufficient records as to establish the identity of the customer, the origin and destination, and the time and date of travel.

There should be no service restrictions linked to the class of customers (as is currently the case for tourist services), how customers pay (currently the operator or driver of charter services must not accept individual fares from customers), or their origin or destination.

And there should be no regulation that prevents the operation of carpooling services such as UberPool or LyftLine. These are services that coordinate groups of unrelated customers so that they are able to use a single point to point transport services. Taxis should also be able to offer this type of service.²⁹

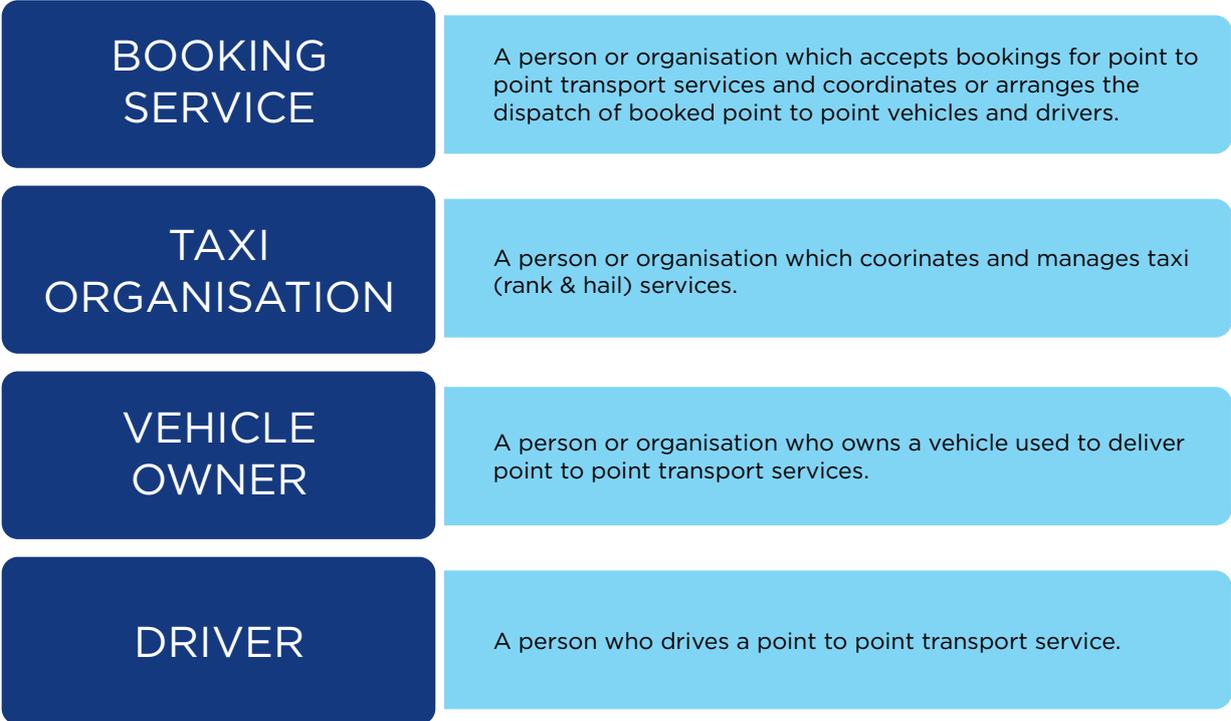
IPART’s submission agrees with this approach, noting that

*“... there should be fewer distinctions between modes of point to point transport, allowing for competition that can achieve better outcomes for passengers than regulation in many cases”.*³⁰

New regulatory framework

The taskforce recommends that the NSW Government adopt a regulatory framework built around four essential functions in the provision of point to point transport services, which imposes specific obligations on any person who performs those functions. This is a significant shift from the current regulatory framework which defines the business model of existing entities and prescribes the specific requirements that they must meet. The four functions are the booking service, the taxi organisation (described as a taxi organisation in this report, to avoid confusion with the existing roles of taxi networks and taxi operators), vehicle ownership and vehicle driving:

Figure 1. Point to point industry functions



29 The 2014 Act requires that public passenger services operating according to regular routes or timetables must have a service contract with Transport for NSW, unless otherwise exempted by Transport for NSW. We do not propose that this requirement be changed.

30 IPART submission, p.6.

The obligations for each of the four functions are described in Table 1.

A flexible regulatory approach with an emphasis on essential functions and not traditional entities will encourage a break from entrenched business models and hierarchical structures which add costs and constrain innovation. We are confident that over time this will enable the development of new structures and new business models. The proposed approach is also consistent with the taskforce’s underlying principles in the regulation of point to point transport to focus on outcomes, promote meaningful accountability and enable innovation.

The NSW Taxi Council’s submission notes that “there also needs to be a chain of responsibility model adopted for the point to point sector”.³¹ We agree that the regulatory framework needs to establish clear accountabilities for customer safety outcomes.

Table 1. Obligations for entities undertaking specific functions

Function	Obligations
Booking service	<p><i>Vehicle</i></p> <ul style="list-style-type: none"> • Vehicle is roadworthy • Vehicle is registered • Vehicle is fully insured • Vehicle maintenance and repairs are undertaken by a licensed mechanic. <p><i>Driver</i></p> <ul style="list-style-type: none"> • Driver is licensed • Driver meets government standards for medical record, driving record and criminal record • Driver is competent to assist customers in wheelchairs if driving a wheelchair accessible vehicle. <p><i>Consumer protection</i></p> <ul style="list-style-type: none"> • Provides fare estimate • Must not use the word “taxi” to describe a service that is not a licensed rank & hail taxi. <p><i>Record keeping</i></p> <ul style="list-style-type: none"> • Maintains required records and provides to regulator on request • Larger booking services must provide the regulator de-identified trip data by location and time of day.

³¹ NSW Taxi Council submission, p.40.

Function	Obligations
Taxi organisation	<p>Vehicle</p> <ul style="list-style-type: none"> • Vehicle is roadworthy • Vehicle is registered • Vehicle is fully insured • Vehicle is fitted with organisation’s livery • Vehicle maintenance and repairs are undertaken by a licensed mechanic. • Vehicle has a valid taxi licence • Vehicle security (taxi only) • Vehicle used for rank & hail work must have functioning duress alarm, tracking device and security cameras (or equivalents) • Duress alarm is monitored at all times the taxi is in use for rank & hail services • Security camera footage can be accessed upon a valid request. <p>Driver</p> <ul style="list-style-type: none"> • Driver is licensed • Driver meets government standards for medical record, driving record and criminal record • Driver is competent to assist customers in wheelchairs if driving a wheelchair accessible vehicle • Driver meets standard for English competence • Driver has an identification card (or equivalent). <p>Consumer protection</p> <ul style="list-style-type: none"> • Sets and displays fares for rank & hail services that are at or below the regulated maximum determined by the Government. • Any device used to calculate fares is accurate • Complaints number is prominently displayed for customers • Rights and responsibilities are prominently displayed for customers. • Record keeping • Must keep records and provide to regulator on request • Larger taxi organisations must provide the regulator de-identified trip data by location and time of day.
Vehicle owner	<ul style="list-style-type: none"> • Vehicle is roadworthy • Vehicle is registered • Vehicle is fully insured • Vehicle maintenance and repairs are undertaken by a licensed mechanic • Vehicle has a valid taxi licence • If the vehicle is wheelchair accessible, the ramp, hoist and restraining devices are fully functional • Must not use the word “taxi” to describe a service that is not a licensed rank & hail taxi.

Function	Obligations
Driver	<ul style="list-style-type: none"> • Exercise due care when driving a point to point vehicle • Notify of change in their medical condition which adversely impacts their capacity to drive • Notify if they have been charged with a disqualifying offence or a serious driving offence • Not charge more than the agreed fare (for a booked service) • Not charge more than the displayed fare (for a rank or hail service) • Not accept a rank & hail fare (if the vehicle is not a taxi) • Display their identification card or equivalent (taxi drivers only).

Performance of responsibilities

A person or a firm may have more than one role simultaneously, acting as a booking service, taxi organisation, vehicle owner and driver, or any combination of these, at the same time. For example, existing taxi networks may choose to perform the function of both a taxi organisation and a booking service. A hire car operator may choose to be a booking service, a vehicle owner and a driver. In doing so, these entities would be required to fulfil the obligations of that function.

It is proposed that where a booking service, taxi organisation, vehicle owner or driver has a specific obligation under the regulation, the standards that they must meet are based on the ‘So Far As Is Reasonably Practicable’ (SFAIRP) test. The SFAIRP test is commonly used in work health and safety law, rail safety law and heavy vehicle law.

SFAIRP imposes a requirement that a person evaluate the particular risks associated with their business and put systems in place to identify, manage, mitigate and where possible, eliminate, those risks. It is part of an outcome-focused regulatory regime which specifies the objective of the regulation rather than a prescriptive process by which it is to be achieved.

What is “reasonably practicable” for a responsible entity to do at a particular time to ensure that it meets its regulatory obligations is an objective assessment based on consideration of a range of matters including:

- the likelihood of a hazard or risk occurring
- the degree of harm that might result if the hazard or risk occurred (the potential seriousness of injury or harm)
- what the responsible entity knows, or ought to reasonably know, about the hazard or risk and ways of eliminating or minimising it
- the availability of suitable ways to eliminate or minimise the hazard or risk, and
- the cost of eliminating or minimising the hazard or risk.³²

In order to discharge its obligation under the SFAIRP test, a responsible entity must first consider what can be done to reduce and eliminate risks and then determine whether it is reasonable in the circumstances to do all that is possible.³³

³² Safe Work Australia, Interpretive Guideline – Model Work Health and Safety Act – the meaning of “reasonably practicable” <http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/607/Interpretive%20guideline%20-%20reasonably%20practicable.pdf>, accessed 2 October 2015.

³³ Safe Work Australia, Interpretive Guideline – Model Work Health and Safety Act – the meaning of “reasonably practicable”. <http://www.safeworkaustralia.gov.au/sites/SWA/about/Publications/Documents/607/Interpretive%20guideline%20-%20reasonably%20practicable.pdf>, accessed 2 October 2015.

What is reasonably practicable is proportionate to the identified risks and the circumstances. For example, a vehicle owner would have a duty to ensure a vehicle used to provide a point to point transport service is roadworthy. This does not mean that the owner would need to have the vehicle mechanically serviced prior to each shift, as that would impose an unreasonable cost that is disproportionate to the risks. To discharge an obligation to ensure a vehicle is roadworthy (so far as is reasonably practicable), it might be expected that the vehicle owner would keep records about the vehicle and the processes by which it is maintained.

In addition, the owner may need to demonstrate that they had in place a system for managing risks related to vehicle roadworthiness, such as a process for periodic inspections and regular maintenance, and a system for drivers to report problems with vehicles.

Joint responsibilities

Under the proposed approach, responsibility for fulfilling an obligation may be shared. Depending on the nature of the service, it is possible that the booking service, taxi organisation and vehicle owner might all have the same obligation. In this circumstance, each responsible entity would need to take appropriate steps to meet their responsibilities.

Where an obligation is joint, there is also an expectation that the parties will consult with one another in relation to that obligation. Importantly, a responsible entity cannot contract out of, or transfer, their responsibility.

An example in the point to point transport environment would be that the booking service and the vehicle owner would both have a responsibility to ensure that a vehicle is roadworthy. In order to fulfil this obligation, both responsible entities could conduct routine inspections of the vehicle, but a more cost-effective way might be for the vehicle owner to implement a vehicle maintenance system and communicate the particulars of that system to the booking service. The booking service could periodically inspect the vehicle themselves to ensure that the owner is continuing to properly implement the maintenance system.

Benefits of the approach

There are a number of benefits of assigning responsibility for outcomes. For the first time, all entities that make up the point to point service delivery chain are directly responsible for ensuring they meet safety, security and consumer protection outcomes. This enhanced accountability is aimed at improving outcomes for customers.

Under an outcome-based approach, a responsible entity will need to establish systems for identifying and managing risks. This is a more comprehensive approach to safety than at present and has the potential to move the point to point industry beyond a reliance on the regulator for the enforcement of the safety, security and quality of services.

A significant benefit that will arise from adopting this model is that both booking services and taxi organisations will have increased commercial incentives to deliver a service that meets (or exceeds) customer expectations. By limiting government regulation to matters of safety, security and consumer protection, and adopting an outcome-based approach to such regulation, these organisations will have greater flexibility and choice in deciding the best and most cost-effective way to deliver a quality customer service.

Taxi organisation and booking services to be authorised

The taskforce recommends that booking services and taxi organisations should be authorised so that these entities are known to the regulator. This will become increasingly important as a more diverse range of entities undertake these functions.

We recommend that the obligations associated with these functions apply to any person or organisation performing them, regardless of whether they have been authorised or not. This will also mean that it will not be possible for any entity providing these functions to operate outside of the regulatory framework.

There appears to be support for such an approach. One submission stated:

“... we believe that taxi networks need to be authorised, however, it needs to be done on a consistent basis. Simplifying the complex application requirements would make this process less burdensome for the government and new entrants. Having a system whereby authorisation is not in place would encourage the proliferation of rogue operators/networks.”³⁴

Likewise, IPART noted that “if authorisation is to be retained in metropolitan transport districts under the regulatory framework, the conditions of authorisation should relate to operational requirements rather than to application requirements”.³⁵

Activus Transport, a community transport organisation, observed in its submission that “the networks are not consistent and we have found that we have received better service by taxi drivers and hire car companies who we can book directly with and form a relationship with. Therefore there seem to be no benefit in regulating the networks.”³⁶

The taskforce agrees that the existing application requirements for taxi network authorisation can be much simplified. Any requirements relating to service quality should be removed, for example lost property and complaint management (see chapter 6).

We also recommend that any requirements relating to the competence of applicants and operation of the entities should also be removed as this places limits on how entities structure and organise themselves, potentially adding cost to the delivery of services. For instance, applicants currently have to provide copies of the network’s proposed constitution and by-laws, proposed operator agreement, details of a proposed authorised taxi inspection station (if the network has selected a particular station), and any agreement for offloading bookings to another network.

The taskforce notes that the NSW Government has already proposed to simplify the requirements for taxi network authorisation in the proposed Passenger Transport (Taxi Networks and Booking Services) Regulation 2015.³⁷

We recommend that the application requirements of authorisation be limited to proof of identity and undergoing a criminal record check. This is the same application requirements used by the Victorian Taxi Services Commission for a network service provider (which is similar to a booking service for taxis). These requirements are not a burden for industry.

³⁴ Atra family submission, p.3.

³⁵ IPART submission, pp.3–4.

³⁶ Activus Transport submission, p.1.

³⁷ Transport for NSW, Proposed Passenger Transport (Taxi Networks and booking services) Regulation 2015: Regulatory Impact Statement, July 2015.

In an outcome-based regulatory framework the emphasis of compliance and enforcement activities would be on ensuring that responsible entities have the appropriate systems in place to identify, manage, mitigate and, where possible, eliminate any risks which might prevent them from performing their duties.

This approach will enable the regulator to adopt a more focused and more effective compliance strategy and not rely solely on the current approach which is to deny entry to the industry to unwanted participants through cancelling or suspending an authority or accreditation. IPART notes that “where the only penalty available is removal of a network authority, a breach would have to be catastrophic to justify levying the penalty, rendering the penalty regime essentially ineffective”.³⁸

In an outcome-based regulatory framework, a significant part of the regulator’s role is in building the capacity of responsible entities so that they have the knowledge and capability to implement their own systems for managing safety, security and consumer protection. This is a different focus than the current rules-based, prescriptive framework where the emphasis of compliance and enforcement activity is on detecting and punishing specific breaches.

goCatch suggested that:

“... the primary areas that we see the regulators needing to work at a booking service or network level is around: Ensuring booking providers do not dispatch work to drivers who have a suspended or cancelled driver authority or driver’s license; Accessing data from booking providers to be able to understand how customer needs are being met.”³⁹

The taskforce acknowledges that the point to point transport industry will require time and assistance to transition to an outcome-based regulatory model. The regulator will also need time, and possibly additional resources, to reconfigure its activities in support of such an approach.

Assuming that the challenges of the transition can be met, the taskforce believes that an outcome-based regulatory framework has the capacity to increase safety standards within the point to point transport industry. A more detailed explanation of proposed compliance and enforcement can be found at chapter 9.

³⁸ IPART submission, p.17.

³⁹ goCatch submission, p.3.

2. Safety regulation relating to drivers

The safety of customers and drivers of point to point transport services is a key consideration of the taskforce. This section of our report outlines our recommendations relating to the standards that apply to point to point drivers for safety, and how the administration and enforcement of these standards could be improved.

Recommendations

9. The taskforce recommends that the current driver authorisation scheme be replaced by a system which gives taxi organisations and booking services greater flexibility to determine how standards are met.

Standards for driver licence tenure, driving history and medical fitness

The taskforce recommends that:

10. The requirement for a point to point driver to hold an unrestricted NSW driver licence and to have held an unrestricted Australian driver licence for 12 months in the past two years be retained.
11. The age requirements for point to point drivers do not need to be addressed in this regulatory regime, as this is covered by the Graduated Licensing Scheme under road transport legislation.
12. Driver medical fitness requirements be administered as part of the driver licensing regime.
13. To facilitate the industry's fulfilment of their regulatory obligations, the future regulatory framework include an express provision to allow the regulator to share vehicle registration, licensing and criminal charge information in real time with booking services and taxi organisations. To enable this, improvements to RMS data systems should be made.
14. The regulator be resourced to ensure that it receives real-time information from NSW Police about charges laid against point to point drivers to facilitate the industry's fulfilment of their regulatory obligations.

Other standards for drivers

The taskforce recommends that:

15. Categories of criminal and other offences which disqualify a driver from driving a point to point vehicle be clearly defined in the regulation.
16. Drivers of all wheelchair accessible vehicles (not just taxis) be required to meet a certain level of competence in the safe loading, restraint and unloading of customers in wheelchairs, with industry having flexibility to determine how this obligation is met.
17. The requirement of a point to point driver to inform the regulator that they may lawfully work in Australia be removed.

Special requirements for taxi drivers

The taskforce recommends that:

18. The national minimum English standard be retained for Sydney taxi drivers. However, prospective drivers should no longer be required to pass an English language assessment to prove they meet the standard. Instead, a taxi organisation should be given flexibility to determine how to satisfy itself that a driver meets the standard.
19. Taxi organisations be required to take steps to assure customers of the identity of the driver in a secure and safe way. The Government should not prescribe how taxi organisations fulfil this obligation.
20. Requirements relating to driver worksheets be removed.

Consistent application of road transport law

The taskforce recommends that:

21. Drivers covered by the proposed regulatory framework who meet the other requirements of the professional driver scheme be permitted an extra demerit point.
22. All people driving point to point vehicles be subject to the requirement that they must have a blood alcohol concentration of below 0.02.

A new regulatory framework for the regulation of driver safety

The existing regulatory requirements relating to safety for point to point drivers are highly prescriptive, and there are significant costs for drivers, especially taxi drivers, in complying with these requirements.

The taskforce heard a number of complaints about the current regime, including strong feedback from industry participants about the time taken by RMS to process driver authority applications. Some taxi operators complained that finding drivers was extremely difficult and that delays in processing driver authorisations were preventing some prospective drivers from entering the industry. Even taking into account recent improvements in processing times, the taskforce considers this regime is cumbersome.

That said, the taskforce does not propose to make changes to the existing standards which relate to the regulation of point to point drivers in respect of safety, which were widely accepted in submissions to be adequate.⁴⁰ Existing standards include requirements relating to driver licensing and history, medical fitness, criminal history, competency in the safe use of equipment for wheelchair accessible vehicles (WAVs) and English language for taxi drivers.

However, we do believe that there are opportunities to improve the current approach to implementing safety standards and at the same time improving accountabilities in the delivery of safety outcomes. We propose a number of changes in that regard, as outlined in more detail below.

As described in chapter 1, a key aim of our proposed regulatory framework is to ensure that responsibility for mitigating or eliminating risks rests with those entities that have the management, control, influence and information to fulfil that obligation. Another specific aim of the proposed regulatory framework is to ensure that taxi organisations and booking services – those entities whose brand reputation is at stake – are incentivised to ensure safety, consumer protection and customer service outcomes.

Currently, the prescriptive nature of the regulatory framework means that the methods of achieving safety outcomes are tightly specified. The legislation also relies strongly on the regulator having a central role in all aspects of compliance. Because of these two features, there is little incentive and limited opportunity for industry participants to take responsibility for how safety outcomes are achieved. They do not “own” any of the processes, or the standards to which drivers are held. The standards set by Government should be seen as minimal, with room for taxi organisations and booking services to set higher standards, should they see fit.

⁴⁰ See for example submissions from the NSW Taxi Council, NSW Hire Car Association, the NRMA, Coffs Harbour Taxis, Vision Australia, Ingogo, BusNSW, the Motor Traders Association, goCatch.

Key to shifting this accountability to the business entities lies in replacing the current driver authorisation regime with a system which sets minimum standards, but gives taxi organisations and booking services more flexibility about how these standards are met.

The taskforce therefore recommends that the NSW Government adopt a model of regulation for the safety of point to point transport drivers which is risk-based and outcome-focused, and places responsibility for mitigating or eliminating risks with those entities that have the capacity to fulfil that obligation effectively. It should also incentivise those entities whose brand is associated with the service to take greater accountability for outcomes.

Under this model, as described in chapter 1, each entity, whether that is the booking service, the taxi organisation, the vehicle owner or the drivers themselves would be required, so far as is reasonably practicable, to ensure that they fulfil their obligations to ensure that driver safety standards are met. They would be individually accountable for their actions. In the event that more than one entity has an obligation for the same matter, each one retains the obligation and must discharge it to the extent to which they have the capacity to influence or control the matter. The regulator may take compliance action against multiple entities for failing to fulfil the same obligation. Any action taken by the regulator would be targeted, and based on an assessment of risk.

The taskforce considers that this approach has significant benefits for industry as long as an effective safety culture is developed, and has the potential to reduce costs for industry and ultimately customers. Removing driver authorisation by the regulator is a significant change that will take time to implement, and it may mean that the existing systems remain in place for a period of time.

Independent owner/drivers and informal networks of drivers

We acknowledge that there are currently several independent hire car operator/owner drivers, especially in Sydney. We are also aware of less formal networks of drivers in the taxi industry who may have longstanding clients whose bookings they may pass on to colleagues. From what we have heard from drivers during consultation, most of these drivers are also signed up to other booking services, who would be vetting them for safety.

Under our proposed framework, these drivers would need to be authorised by the regulator as a booking service, and meet any obligations under the law relating to booking services, just like other hire car operators dispatching work to a fleet of drivers, or a third party booking service provider.

They would be required to be authorised and to meet all obligations of booking services under the law, and the regulator would be able to take action against drivers for failing to meet these requirements. It is essential that during the transition to these arrangements independent owner/drivers receive support and assistance to ensure that they understand their obligations under the law.

Standards relating to driver licensing and driving history

Drivers of public passenger vehicles must currently be at least 20 years old and hold an unrestricted NSW driver licence. They must also have held an Australian driver licence for 12 months in the past two years. These requirements are administered separately from the driver licensing regime.

There were no submissions which supported a change to the requirement that the driver must hold an unrestricted driver licence. It is commonly required by employers in a range of industries and, given the strong evidence from road safety research and policy related to the graduated licensing scheme,⁴¹ the taskforce recommends it should be retained.

The requirement that the applicant has held an unrestricted Australian driver licence for 12 months of the previous two years is intended mitigate against the risk of the driver not having appropriate familiarity with the current laws and customs of driving in NSW. In practice, this occurs mainly in two instances. The first is where a driver whose licence has been suspended or cancelled in NSW, or elsewhere in Australia, and the second case is drivers who may have transferred their driver licence to NSW from another country.

⁴¹ <http://roadsafety.transport.nsw.gov.au/downloads/gls.pdf>

With the exception of the NSW Taxi Council, who argued this should be retained,⁴² this issue did not come up in submissions or consultation. It appears to be reasonable, and relatively easy to administer, so we recommend that the requirement to have held an unrestricted Australian driver licence for 12 months in the past two years be retained.

The introduction of the Graduated Licensing Scheme in the years since these standards were set means that it is now not possible to hold an unrestricted NSW driver licence before the age of 20, so the additional requirement relating to the age of the driver is no longer necessary.

There are also requirements relating to driving history (in addition to licence tenure) that RMS considers when issuing a driver authority. For example, a driver authority is not issued if the driver licence is cancelled or suspended and on good behaviour condition.

Further, a driver authority may not be issued if the applicant has the following offences recorded in the traffic history:

- has three or more drink driving offences in the last five years
- has speeding offences of over 30km or more
- has taken part in “road rage” offences.⁴³

As discussed further below in relation to criminal history, we believe that these minimum standards should be clearly spelled out in the regulation and be made disqualifying offences for point to point drivers. Again, this should not prevent booking services and taxi organisations (or vehicle owners for that matter) from setting higher standards in relation to driving offences. For instance, Uber’s submission noted that it had a policy which required that a driver’s record “must be exemplary, with zero tolerance for any drink driving offences”.⁴⁴

Assessing medical fitness

Public passenger vehicle drivers are required to meet a nationally agreed prescribed standard of medical fitness – known as the commercial vehicle driver standard. The taskforce does not propose that this standard be altered, given the widespread acceptance and national application.

This standard also applies to any holder of a Medium Rigid drivers licence or above. As at 30 June 2015, there were almost 440,000 holders of these classes of licence,⁴⁵ compared with about 50,000 public passenger vehicle drivers. For heavy vehicle drivers, the medical requirements are dealt with through the driver licensing regime. The taskforce considers that rather than separately administer medical requirements for point to point drivers, this should also be done through the driver licensing regime as for heavy vehicle drivers.

In practice, a driver would advise that they are to be assessed against the commercial vehicle standards on their licence application or renewal form and when approved an indication of whether the driver meets the commercial medical standard would appear on the licence. If for some reason it was not technically possible to show this on the licence, it could be accommodated through the information-sharing arrangements relating to driver licensing described below.

The number of other licence holders required to meet these standards should make this process more efficient than having a separate arrangement just for the point to point industry, and it will avoid duplication.⁴⁶

42 NSW Taxi Council submission, p.21.

43 Information provided by RMS.

44 Uber submission, p.21.

45 RMS data.

46 While this was not raised in submissions, the taskforce is aware that the requirement for public passenger vehicle drivers to go through two different medical processes (once for their driver licence and then again for the driver authority) has been a cause of frustration in the past. The taskforce understands that RMS is taking steps to streamline these arrangements.

Currently, public passenger vehicle drivers must provide a completed medical report to RMS before they are given a driver authority. Taxi and hire car drivers are assessed once at the start and, subject to no medical conditions being present which necessitate more frequent assessment, they do not have another assessment until they turn 60, when they must be assessed every year. These arrangements have been in place for many years.

Heavy vehicle drivers are mostly not required to pass a medical assessment, unless they identify on their application form that they have a medical condition which may affect their driving.⁴⁷ It is an offence to knowingly withhold information relating to a medical condition which affects a person's ability to drive. If a driver is considered to be medically fit to the required standard they are subject to a medical assessment at age 75.

The taskforce has not had sufficient time to examine this issue in detail. However, we consider that this approach is reasonable, given its apparent acceptability for heavy vehicle drivers.

Unless analysis of available evidence suggests that relying on self-declaration by drivers presents an unacceptable risk, we recommend that an identical approach should be adopted for point to point drivers. Likewise, if an assessment of the evidence suggests that a medical assessment should be conducted before the age of 75, then such an assessment could be prescribed at the nominated age.

Regardless of the approach taken, we recommend that the assessment of point to point transport drivers against the commercial medical standards be administered via the driver licensing regime.

Drivers would continue to have obligations to notify RMS of any medical condition which affects their ability to drive (as does any licensed driver), as well as the vehicle owner and the taxi organisation and booking service. Likewise, a vehicle owner, taxi organisation or booking service would be obliged not to allow a person to drive a point to point vehicle if they know, or ought reasonably to know, that the person is not medically fit to the commercial vehicle standard.

Changes to the application and enforcement of driver licensing

Under our proposed model, taxi organisations and booking services, as the "brand entities" which set the fares and serve as the interface with the customer for the provision of service, would be obliged to ensure that drivers providing services through their systems meet these minimum standards for driving history and licence tenure. As noted above, they would also be able to set their own higher standards.

These entities would also be authorised by the regulator, and subject to audit and other information management requirements. Action could be taken against them for failing to take reasonable steps to ensure that these outcomes are met.

Records of a person's driver licence tenure and driving history are currently available from RMS and other driver licensing authorities around Australia and the world. A driver licensed in NSW can access this information directly from RMS. There are also commercial organisations which will arrange, for a fee, for background checks to be made (from NSW and other Australian jurisdictions), provided the driver has consented to the information being sought.

Even so RMS's information-sharing powers under relevant legislation should expressly permit the regulator to proactively share such information with booking services and taxi organisations, which are required to be authorised under our proposed regulatory framework (as described in chapter 1).

We also believe that there is scope for RMS to dramatically improve the way it shares this information. For example, Ingogo's submission requested real-time access to RMS databases via an Application Programming Interface (API) (with respect to driver authorities): "Real time access would enable immediate verification each time a driver logs onto our system."⁴⁸

47 Holders of multi-combination licences must undergo a medical review at regular intervals in recognition of the increased risk associated with these vehicles.

48 Ingogo submission, p.3.

Likewise, the NSW Taxi Council's submission stated that:

*"... these checks need to be ongoing. A driver of a public passenger vehicle must be fit and proper in all respects at all times. The status of a driver in this context can change quickly ... and therefore there needs to be an efficient and effective compliance framework that responds to this dynamic environment."*⁴⁹

In order to successfully allow point to point transport industry participants to take on a more self-regulatory role, it is essential that they can access the information they need to fulfil their obligations. The taskforce believes that, for the success of these reforms, it is vital that RMS is adequately resourced to ensure licensing (and vehicle registration) information for point to point drivers is made available to industry participants in real time.

Although this will involve some upfront cost, a simple, cheap online capacity to vet point to point drivers ensures a high level of safety and will greatly enhance confidence in the industry. In addition, such systems will significantly improve compliance outcomes and reduce costs overall. These costs could be recovered through efficient-cost fees to booking services and taxi organisations. Such a development would likely have uses in other contexts, for example in heavy vehicle regulation, subject to privacy safeguards being maintained, and would be consistent with the NSW Government's Open Data policy. In the interim, this data should be made available on a regular basis, as well as via the web portal, as it is now to certain parts of the industry.

Criminal history

All point to point drivers authorised by RMS are subject to a criminal history check, and submissions to the taskforce universally supported maintaining standards for criminal background checks for drivers.⁵⁰

There is currently no published list, or set of offences clearly defined in legislation which automatically disqualify a driver from the industry, as occurs in Queensland.⁵¹ However, in practice, the taskforce understands that RMS refers to a set of offences when making an assessment as to whether a driver should be authorised.

There are problems with the categories of offences not being spelled out in policy or in law. The taskforce has heard of a number of instances where RMS has taken steps to cancel a person's driver authority only to have that decision overturned by the NSW Civil and Administrative Tribunal (NCAT). In each case RMS had cancelled the driver authorisation after learning that the person had been convicted of an offence. However on review, NCAT ruled that the criminal records of those persons did not mean that they were unfit to drive a public passenger vehicle.⁵²

This issue was picked up in Uber's submission:

*"Recent administrative appeals involving taxi drivers suggest that drivers have obtained or renewed authorisations despite: previous cancellations for inappropriately touching female passengers; convictions for fraud; convictions resulting in custodial sentences of eight months ... Records also suggest that drivers have retained authorisations despite: convictions for common assault⁵³; multiple allegations of credit card fraud; extensive complaints histories, including complaints of drink driving and reckless driving."*⁵⁴

The taskforce does not propose to comment on the substantive elements of the NCAT decisions but notes that drivers of point to point are in a position of trust and the process of vetting and excluding potential drivers needs to be robust and produce consistent outcomes.

49 NSW Taxi Council submission, p.22.

50 See for example submissions from NSW Taxi Council, Uber, goCatch, NRMA.

51 Queensland Transport Operations (Passenger Transport) Act 1994, ss.28A-28C.

52 See for example: *Roads and Maritime Services v Rifahi* [2015] NSWCATAP 43 and *Keane v Roads and Maritime Services* [2015] NSWCATAD 116

53 The offence was proved but no conviction was recorded. *Ghachame v Roads and Maritime Services* [2013] NSWADT 144.

54 Uber submission, p.33.

We do, however, recommend that categories of offences which disqualify a driver from driving a point to point vehicle be clearly spelled out in regulation, which aligns with those offences currently taken into consideration by RMS. Of course, booking services and taxi organisations could also set their own higher standards than the minima provided in regulation – for example, Uber stated that it does not accept any criminal history at all.⁵⁵

In addition to any disqualifying criminal offences, we are of the view that serious offensive conduct towards a customer such as being abusive, aggressive or threatening toward a customer, making sexually explicit comments or other forms of harassment should continue to be an offence. We believe that such an offence should be a disqualifying event – that is, if a driver is found guilty in court of such an offence, then they should no longer be permitted to drive a point to point vehicle.

As now, if a person who is charged with any disqualifying offence is later acquitted of that offence, or if the charges are withdrawn, then they would again be a suitable person. It may also be appropriate to consider that a person with multiple infringement notices (fines) for this offence is no longer a suitable person.

Standards of criminal checking

Under the *NSW Criminal Records Act 1991*, certain old criminal convictions known as “spent convictions” do not need to be disclosed and are not considered to be part of a person’s criminal history after 10 years have passed since the person was found guilty.⁵⁶ Further, a person (including RMS for the purposes of assessing fitness to hold a driver authority) is not entitled to take a spent conviction into account in assessing a person’s character.

This is not the case in some other states, some of which (such as Victoria) do not have a spent convictions regime, and some of which apply their spent convictions regime differently – for example, Queensland legislation requires that the taxi industry regulator takes into account all previous convictions including those that would otherwise be considered as spent.⁵⁷

Because the NSW approach, the criminal history checking that is done by RMS is identical to commercially provided criminal history checks. All commercial providers of third party criminal history checks are accredited by the National Police Checking Service and use the same Australian Government Crimtrac database as RMS.

Some submissions suggested that working with children checks should be a requirement for point to point drivers. The NRMA stated that: “drivers wishing to be eligible to transport minors must be subject to a working with children check”.⁵⁸

Any person involved in providing transport services to children is already obliged under the *Child Protection (Working With Children) Act 2012* to undergo a Working With Children Check. We do not see a need to duplicate this requirement under passenger transport legislation.

In terms of ongoing checking for disqualifying offences, for example if a person is charged with a serious crime, we note that until February 2014, NSW Police routinely shared this information with RMS but due to privacy concerns about how this information was being shared, this practice stopped. RMS has advised that it now relies upon a fresh Crimtrac check at the time of a driver authority renewal, as well as ad hoc information received from NSW Police Local Area Commands where the investigating officer is aware that the person is an authorised driver, self-reporting by drivers, operators and networks, as well as media reports.⁵⁹

RMS has advised that NSW Police and RMS are working to establish an automated process which overcomes any privacy issues, but that this will require some additional resources to establish.⁶⁰

⁵⁵ Uber submission, p.13.

⁵⁶ *NSW Criminal Records Act 1991*, ss7-9.

⁵⁷ http://www.tmr.qld.gov.au/-/media/Licensing/Authorisations/Driver%20authorisations/Information%20bulletins/Pdf_pt303_da_taxi.pdf

⁵⁸ NRMA submission, p.12.

⁵⁹ Information from RMS.

⁶⁰ Information from RMS.

In the future, we recommend that the regulator is appropriately resourced to have such an arrangement in place, so that they may efficiently pass through any relevant charge information to booking services and taxi organisations, as outlined below.

Changes to the process for criminal history checks

As with driving history checks, the taskforce proposes that criminal history checks no longer be conducted by the regulator. Instead, booking services and taxi organisations would be obliged to satisfy themselves that the drivers using their service do not have any disqualifying offences. They would have options about how they satisfied this requirement, based on their assessment of risk. For example, they could engage a commercial provider to conduct a check on their behalf, or ask a driver to produce a recent check.

Booking services and taxi organisations would be periodically audited to ensure that they are meeting these obligations appropriately and action could be taken against them if they are found to be lacking.

A number of submissions discussed whether third-party criminal checking of drivers should be allowed. For example, Ingogo stated:

“To the extent to which a new regulatory regime permits driver safety and competence checks to be done privately, we submit that this would need to be monitored by and reported to RMS and that a minimum standard be enforceable.”⁶¹

In their submission, the NSW Hire Car Association (NSW HCA) stated that “the government may wish to privatise the driver accreditation process and the NSW HCA would not be against that process, provided the appointed agencies have strict guidelines to ensure impartiality and guard against corruption”.⁶²

We believe the safeguards put in place under the proposed regime relating to audit and penalties for non-compliance deal with these concerns.

Training for safety outcomes

Under passenger transport regulations, a person must not drive a wheelchair accessible taxi unless they have successfully completed training in respect of the care and transport of persons with physical disabilities. There are serious penalties for drivers who breach this requirement. We agree that drivers of wheelchair accessible vehicles must know how to safely load, secure and unload passengers and operate vehicle ramps and hoists.

Transport for NSW’s 2013 customer research on WAT services found that the training is providing drivers with the skills needed to provide a safe service for the majority of WAT customers. Over 90 per cent of survey participants reported their safety needs were being met, either completely or somewhat. Even so:

- 5 per cent said the driver did not properly secure their wheelchair on the last trip
- 8 per cent said the driver was not familiar with the operation of their wheelchair
- 6 per cent of WAT customers said the driver did not adequately understand and respect their needs as a person with disability.⁶³

Actions identified for follow-up out of the research were to review training course content, with consideration to be given to including an on-road component, and that drivers be re-certified every three years to ensure that they maintained the necessary skills.⁶⁴

These recommendations were made almost two years ago and information from Transport for NSW suggests that no progress has been made to date on their implementation. The taskforce expects that this is largely because under the current regulatory framework there is a strong reliance on the Government to prescribe requirements. In our view, this should not be the case and industry should have made whatever changes were deemed necessary on their own initiative.

⁶¹ Ingogo, Submission to the Point to Point Transport Taskforce, p.4.

⁶² NSW Hire Car Association, Submission to the Point to Point Transport Taskforce, p.10.

⁶³ Stancombe for Transport for NSW, Wheelchair Accessible Taxi Customer Research, p.65

⁶⁴ Transport for NSW, Wheelchair Accessible Taxi Customer Improvement Initiative, Recommendations for service improvement, final report, p.5.

Consequently, in line with our view that the regulatory framework for point to point services should be risk-based and outcome-focused, we recommend, as suggested in Uber’s submission, that “the delivery of this training should be devolved from the regulator”.⁶⁵

There are already obligations under work health and safety laws to ensure that drivers have the necessary competence and safe work practices. Booking services (and taxi organisations to the extent that they have customers in wheelchairs who hail taxis or take them from a taxi rank) and vehicle owners will have greater familiarity with the equipment in the vehicle and the competence of the drivers than the Government does. Indeed, if a driver already has a great deal of experience with the safe loading, restraining and unloading of passengers, then the level of training required could be minimal.

Any decision about the content of any training, including an on-road component of the training, or any kind of re-certification on a periodic basis should be left to the individual booking service, in consultation with the vehicle owner and drivers. Depending on their circumstances, booking services could seek to deliver training in-house, or partner with other organisations (for example, a community transport provider in their local area with wheelchair accessible fleet) to achieve the same outcome.

Given our recommendations relating to a service-provider neutral scheme for people with disabilities (see chapter 8), we also recommend that any point to point driver of a wheelchair accessible vehicle (not just a taxi) be required to demonstrate competence in the safe loading, restraining and unloading of passengers.

Further, to the extent that there are safety components of the broader taxi driver training courses (also covered in chapter 6 on service quality) we expect that booking services, taxi organisations and vehicle owners, in consultation with drivers, would be best placed to determine what training may be required, in accordance with their obligations under work health and safety laws. Industry should receive the appropriate support and assistance during the transition to ensure that this is achieved.

Standards relating to compliance with immigration legislation

Our terms of reference ask us to focus our efforts on matters relating to the safety and security of customers and drivers. The current requirement that a driver must notify RMS that they may lawfully work in Australia does not provide any safety benefit for customers or drivers. The NSW Taxi Council’s submission suggested that all point to point drivers should continue to meet this obligation.⁶⁶

We note that visa holders and anyone who permits a person to work or refers a person for work have obligations under the *Immigration Act 1958* to ensure that people are not working in breach of visa conditions (with stringent penalties for non-compliance).

The taskforce considers that it is not necessary to duplicate this requirement under passenger transport legislation and recommends that the requirement to inform the regulator that they may lawfully work in Australia be removed.

Special requirements for taxi drivers

English language competence

The Regulation requires Sydney taxi drivers to have passed an assessment of written and spoken English demonstrating that they meet the “National Minimum English Standard” (NMES), or have competence which RMS considers equivalent. In Sydney, the assessment is administered by the Adult Migrant English Service (AMES) and costs drivers \$165 for each attempt. The NMES is a national standard for all taxi drivers in metropolitan areas which has been agreed to by all states and territories.⁶⁷

⁶⁵ Uber submission, p.14.

⁶⁶ NSW Taxi Council submission, p.22.

⁶⁷ This agreement was made on 30 April 2010 at the Australian Transport Council (now known as the Transport and Infrastructure Council), which is the Council of Australian Government’s Standing Committee dealing with transport matters <http://webarchive.nla.gov.au/gov/20110601173541/http://www.atcouncil.gov.au/communique/20100430.aspx>

The NMES for speaking and listening is equivalent to the International English Language Testing System (IELTS) of Band 6: Competent user, which is described as “generally effective command of the language despite some inaccuracies, inappropriacies and misunderstandings. Can use and understand fairly complex language, particularly in familiar situations.”⁶⁸

Some submissions to the taskforce indicated support for a basic level of English for taxi drivers, including that of Ingogo.⁶⁹ Vision Australia’s submission raised safety concerns associated with English language competency:

“... we do have concerns that passengers who are blind or have low vision are potentially at risk in situations where a driver has insufficient fluency in English to communicate in emergencies, or where the driver is unwilling or unable to provide assistance. We believe that effective communication skills are an integral part of passenger safety, and that these skills must therefore be a component of safety standards, not just for taxi drivers but for any driver providing point to point transport services.”⁷⁰

The taskforce agrees that a minimum level of English speaking and aural comprehension are important in a rank & hail environment. Communication about a customer’s destination, for example, is generally spoken rather than written. Also, when hailing a taxi, a potential customer is not in a position to request a driver with a specified level of English, so we support this minimum standard being maintained.

We do not propose to extend this requirement to booked-only drivers. With a booked service, a customer can request a driver with certain levels of English, and booking services can more readily tailor their service offering (including any customer requests relating to capabilities in a wide variety of languages).

The taskforce received a submission from a family of taxi owners and drivers which stated that despite the fact that two of them were born, raised, and completed their Higher School Certificate in Australia, they were still required to undertake the English language assessment.⁷¹

We consider this to be unnecessary and propose that the requirement for a prospective Sydney taxi driver to pass an assessment or satisfy the regulator that they meet this requirement be removed. Instead, a taxi organisation should be given flexibility in determining how to satisfy itself that a driver meets that standard.

This could take a number of forms, and may still involve the driver undertaking the current assessment (or an assessment by some other party). It could also involve larger taxi organisations arranging for their own assessment of these standards (or other higher standards). If it is obvious to the taxi organisation that the driver exceeds the NMES, then taxi drivers who already possess a high level of English proficiency would not need to undertake the assessment. The taskforce believes this is a more flexible way to deliver the same current standard.

Other issues

Driver identity

Currently, taxi drivers are obliged to display their driver authority card in the vehicle. This does not apply to hire car drivers. Because of the anonymity of rank & hail services, we consider it appropriate that a taxi organisation be required to take steps to assure customers of the identity of the driver in a secure and safe way.

Again, we propose that this requirement be set with an outcome in mind, rather than specifying the technology or methodology. This will allow taxi organisations to adopt the most suitable measures for their own situation. For example, this might involve an identity card with tamper proof covering or, with the cooperation of the vehicle owner, it might involve technology such as retina scans or fingerprint recognition which prevents the vehicle from being used by anyone other than the approved driver(s).

⁶⁸ http://www.ielts.org/institutions/test_format_and_results/ielts_band_scores.aspx

⁶⁹ Ingogo submission, p.6.

⁷⁰ Vision Australia submission, p.7.

⁷¹ Atra family submission, p.5.

Booking organisations may also choose to provide similar assurances to their customers, as Uber does with the name, photo and contact information of drivers.

Driver worksheets

It is a long-standing practice in the NSW taxi industry that drivers must complete worksheets for each shift. The current regulations make it an offence for a driver to fail to correctly complete their worksheet.

The purpose of a taxi driver's worksheet is to provide a record as to which driver has which vehicle for a particular shift and the time of any breaks taken. This information may be relevant for insurance purposes or in the case of an accident or incident. We understand the worksheet is also intended to provide a record that the driver has checked that the security cameras are in working order. Failing to fill in a worksheet is an offence under the current regulation.

The taskforce does not consider that there is need to provide for this in regulation, and recommends that the requirements relating to driver worksheets be removed. In an outcome-focused approach to managing safety, with a chain of responsibility there are numerous methods which might be deployed to maintain appropriate records, and this is best worked out by those entities who hold the responsibility.

Consistent application of road transport legislation

Professional drivers and demerit points

In NSW a person's licence is suspended when they incur 13 or more demerit points within a three-year period. Professional drivers may apply for an additional demerit point on their driver licence (to 14 demerit points within a three-year period).

A professional driver is defined as a person whose primary work involves driving, including a person who holds a bus, taxi or hire car driver authority. The definition excludes people who are not paid specifically for driving as part of their job, or people who do not normally drive for more than 20 hours in any seven-day period.⁷²

A professional driver seeking the allocation of an additional demerit point must provide details of their employment, the number of hours of paid work, and confirmation of being a professional driver at the date of the last demerit point offence and at the issue date of a licence suspension.

The NSW Hire Car Association did not agree that "rideshare" drivers should be eligible for an extra demerit point because they are "not meant to earn a primary living from this trade".⁷³

goCatch's submission suggested that "[rideshare drivers] should also be eligible to seek an allocation of demerit points"⁷⁴ and the Motor Traders Association suggested that "there should be one set of rules".⁷⁵ Similarly, IPART held the view that:

"If it is considered appropriate for professional drivers to apply for an additional demerit point, then all professional drivers including commercial rideshare drivers should be permitted to do so, based on the current threshold definitions of 'primary work' and number of hours per week spent driving."⁷⁶

The taskforce agrees with this view, and recommends that as long as the person is paid to drive a vehicle, drives on average more than 20 hours a week and was a professional driver at the time the last demerit point offence was incurred, an extra demerit point be permitted for any driver covered by our proposed regulatory framework.

⁷² Road Transport (Driver Licensing) Regulation 2008, cl.120A.

⁷³ NSW Hire Car Association submission.

⁷⁴ goCatch submission, p.4.

⁷⁵ Motor Traders Association submission, p.6.

⁷⁶ IPART submission, p.8.

Prescribed concentration of alcohol in blood

Drivers of regular passenger vehicles must not drive with a prescribed concentration of alcohol of more than 0.05. Along with some other classes of drivers (including heavy vehicle drivers), bus, taxi and hire car drivers must not drive with a prescribed concentration of alcohol of more than 0.02.

Several submissions supported the extension of this requirement to rideshare drivers, including the NSW Hire Car Association.⁷⁷ Vision Australia's submission stated that "our view is that these rules should be applied uniformly to all point to point transport operators"⁷⁸ and a similar view was expressed by IPART⁷⁹ and the NRMA.⁸⁰

In the taskforce's view, a person who drives a point to point vehicle should be subject to the same drink driving requirements as currently applies to bus, taxi, hire car drivers and heavy vehicle drivers. We recommend that point to point drivers must not drive a vehicle engaged in delivering a point to point service with a blood alcohol concentration of more than 0.02.

We would suggest that a person is considered to be driving a point to point transport vehicle if they are driving a taxi (whether or not that taxi is in service) or any other point to point vehicle on the way to pick up a booked passenger, or they are currently carrying a passenger.

Use of devices in vehicles

Under the NSW road rules a driver may not use a mobile phone in a moving vehicle unless it is affixed in a secure mounting, is not in a position to distract the driver and the phone is connected by a hands-free device which means the driver does not have to touch the phone. A driver in a moving vehicle may not, under any circumstances, use a mobile phone for texting, emailing or any similar communication.

The road rules do provide that a driver of a vehicle may use a mobile phone if that phone is affixed in a secure mounting not in a position to distract the driver and the phone is being used as a driver's aid. A driver's aid may include a rear view camera screen, a GPS navigational device or a dispatch system.⁸¹

The taskforce heard that there are potential risks in the use of driver's aids. In their submission the Insurance Australia Group (IAG) noted that:

*"Taxis and ridesharing drivers are increasingly dependent on technology such as smart phones and GPS to locate passengers, communicate with them, and take them to their destination. While these innovations can improve service for customers and enable innovative new business models, they can also pose serious risks relating to driver distraction if not properly used."*⁸²

The taskforce has also heard that it is not uncommon for taxi drivers to have multiple mobile phones in use at once, with each phone logged into a different dispatch system (e.g., Uber, Ingogo, goCatch, etc., in addition to the network dispatch device).

IAG's submission specifically suggested that "banning an inventory of activities [would] be undesirable. In our view the best way to encourage safe driving behaviour is through education and vehicle design rather than trying to legislate for common sense."⁸³ Instead, it recommended the development of "device neutral guidelines on technology use while driving to minimise driver distraction".⁸⁴

The taskforce notes that these guidelines have an application much broader than the point to point transport sector. Similarly, we note that road safety policy is often established at a national level. If any such guidelines are to be developed by the NSW Government, they would need to be taken up in consultation with other jurisdictions and other affected stakeholders.

77 NSW Hire Car Association, p.7.

78 Vision Australia submission, p.7.

79 IPART submission, p.8.

80 NRMA submission, p.12.

81 NSW Road Rules 2014, Rule 300.

82 IAG submission, p.15.

83 IAG submission, p.16.

84 IAG submission, p.17.

3. Vehicle safety and security

Regulation of point to point vehicles for safety and security

This section of our report outlines our recommendations relating to the standards that apply to point to point vehicles for safety and security, as well as how the administration and enforcement of these standards could be improved.

Recommendations

23. The taskforce recommends that there be no requirement for vehicle owners to be authorised by the regulator.

Registration and roadworthiness

24. The taskforce recommends that:

- The standard for vehicle roadworthiness for point to point vehicles be retained, that is, the standard required for passenger vehicle registration.
- The requirement that all maintenance is undertaken by a licensed mechanic be retained.
- Inspection requirements for registration purposes of all vehicles used for point to point transport be aligned to those of other light vehicles.
- Vehicle registration categories be revised in light of the flexible use of vehicles across different categories of registration enabled by technology and the collaborative economy. As an initial step, guidelines for defining “private use” should be developed and vehicle owners should be required to nominate at registration that their vehicle is being used for point to point services.
- Registration processes for point to point transport vehicles be updated with a view to removing the requirement for regulatory number plates and to reduce red tape more broadly for industry participants.

Vehicle security for rank & hail

25. The taskforce recommends that:

- The requirement that taxis have four side doors be retained.
- A vehicle used to provide rank & hail services be readily identifiable as a taxi. It should be a serious offence for anyone to represent that they are providing a taxi service if the vehicle is not a licensed taxi with the relevant security features.
- Working security cameras continue to be required in any taxi providing rank & hail services in NSW.
- Vehicle tracking devices and duress alarms (or their equivalents) continue to be mandated in taxis providing rank & hail services in Sydney, Newcastle, Wollongong and the Central Coast. Elsewhere in NSW, taxi organisations should determine if this equipment is needed, based on an assessment of risk.
- The requirement for a boot release device not be retained.
- The specifications for security equipment in taxis be revised as a matter of priority, with a view to making them outcome-focused and flexible.
- Mandated inspections by entities nominated by regulation (ATIS examiners), and certification that security equipment has been checked, be removed, noting that obligations to ensure that vehicles are roadworthy and secure are to be placed on the booking service, taxi organisation and vehicle owner.

A new regulatory framework for vehicle safety and security

The existing regulatory requirements for safety and security of point to point vehicles are heavily prescriptive, and there are significant costs for industry participants associated with compliance. And it is not obvious that the current arrangements achieve the best outcomes in practice.

The regulatory framework for hire cars, taxis and tourist services, currently nominates an entity, the operator, who is responsible for the delivery of the service. Operators must be accredited, the purpose of which is to demonstrate that they are fit and proper, and have the capacity to meet the Government's requirements for financial viability, vehicle maintenance and the safety of drivers, passengers and the public.

The operator has to meet requirements in relation to vehicle standards, vehicle registration, maintenance, inspections and insurance. In the case of taxis they must also meet requirements in relation to wheelchair accessibility, taxi meters and security systems. These sometimes onerous obligations mean that there is little incentive or opportunity for the operator to innovate and improve customer safety and service outcomes.

As already explained, the taskforce recommends that the NSW Government adopt a model of regulation for vehicle safety and security that is risk-based and outcome-focused to give greater flexibility about how to best meet safety outcomes.

Under our proposed model, each entity, whether the vehicle owner, the booking service, the taxi organisation or the driver, would be required, so far as is reasonably practicable, to ensure that they fulfil their obligations to ensure that vehicle safety and security standards are met. This is described in more detail in chapter 1.

Under the recommended framework, the taskforce expects that many existing operators will become vehicle owners and will consequently have to fulfil the obligations associated with that function. We also expect that some operators will also choose to adopt a combination of other functions and also become a taxi organisation or booking service and potentially a driver.

Given the way the new model works, we do not believe that it is necessary to separately authorise vehicle owners, and recommend that this not be a feature of the new regime.

The sections below examine some of the specific details relating to vehicle safety and security, and describe our recommended changes to fit with the proposed regime described above.

Vehicle registration and roadworthiness

Standards for roadworthiness and mechanical repairs

The taskforce's discussion paper asked stakeholders to provide their views about standards for vehicle safety, and in particular whether there should be any requirements for point to point vehicles beyond the standard for registration.

Submissions did not identify any concerns with this standard of vehicle safety. In fact, the Australian Taxi Drivers Association "is of the view that 'roadworthiness' is the sole required standard".⁸⁵

IAG suggested in its submission that "driver behaviour and vehicle design ... should be considered in the development of minimum safety standards. This should, as far as practicable, take the form of self-regulation or principle based regulation."⁸⁶ IAG also proposed that:

*"... taxis and rideshare vehicles should aspire towards a 5 Star ANCAP rating. Taxi fleets have already made substantial progress towards this goal. Price signals could be used to encourage purchasing of safer vehicles, for example discounts on vehicle registration for 5-Star rated ANCAP vehicles."*⁸⁷

85 Australian Taxi Drivers Association submission, p.18.

86 IAG submission, p.14.

87 IAG submission, p.15.

The taskforce notes that the NSW Government has released a *Vehicle Registration Initiatives* Discussion Paper which proposes registration changes including incentives to encourage the uptake of safer vehicles in line with the Australian New Car Assessment Program (ANCAP) safety ratings system.⁸⁸

We recommend that the government should maintain the existing standard for roadworthiness for point to point vehicles, that is, the standard that is required for vehicle registration. Currently, maintenance and repairs⁸⁹ of taxis and hire cars must be undertaken by a licensed mechanic. We did not receive any submissions which suggested that this was not appropriate. Currently, the vehicles used to deliver UberX services are not subject to this requirement.

The taskforce did receive one submission which expressed concern about the mechanical safety and maintenance of the vehicles used to deliver rideshare services.⁹⁰ Despite this, Uber customers submitted the following comments:

*"[The vehicles used to deliver Uber services] are always clean and mechanically safe."*⁹¹

*"I feel safer (as the cars are always more mechanically sound)."*⁹²

*"The cars are mechanically far better than taxis."*⁹³

An average passenger in a ridesharing vehicle cannot be certain that it is mechanically sound, and the taskforce considers that the requirement for maintenance to be undertaken by a licensed mechanic is unlikely to add significant cost to the provision of point to point transport services. We recommend that this requirement be maintained.

Mandated vehicle inspections for registration

All vehicles may be subject to on the spot inspections by NSW police as part of their enforcement of roadworthiness requirements. In addition, taxis and hire cars are required to undergo twice a year "pink slip" inspections, regardless of vehicle age. All other light vehicles more than five years old are generally required to be inspected once a year.

It is not clear to us that twice yearly inspections are effective in ensuring that taxis and hire cars are roadworthy. In 2014, NSW Police issued defect notices to around 7.8 per cent of the taxi fleet in Sydney. By way of comparison, defect notices were issued to 0.07 per cent of all light vehicles less than six years old (the maximum age of Sydney taxis) across NSW in the same year.⁹⁴

Caution must be exercised when comparing these two defect rates. Taxis are on the road more than most light vehicles and thus the chances of defective vehicles being identified by police are higher. Furthermore, police have been specifically targeting taxis in recent years.⁹⁵

Even so, the fact that the number of defect notices for Sydney taxis was so much higher suggests that the current inspection regime is not preventing vehicles with faults from being on the road. It is unlikely that regulating for more frequent inspections would improve safety outcomes.

Submissions to the taskforce acknowledged the higher number of kilometres travelled by taxis and the implications this has for wear and tear. The NSW Taxi Council's submission stated that:

*"... taxis are public passenger vehicles that do a significant number of kilometres per year. It is therefore considered that there needs to be a higher level of vehicle compliance standards for these vehicles to ensure safety and reliability."*⁹⁶

88 More information available at www.transport.nsw.gov.au

89 Maintenance and repairs are defined in the *Passenger Transport Regulation 2007* to exclude changing oils and other fluids, changing filters, carrying out general lubrication, changing spark plugs, wheels and tyres and light bulbs, replacing seat and floor coverings and replacing external rear vision mirrors.

90 Newcastle Hire Cars submission identifies "concerns about car mechanical safety/maintenance etc. Immediate & ongoing" as a "significant consumer safety concerns", p.9.

91 Anonymous submission.

92 Anonymous submission.

93 Anonymous submission.

94 Information from RMS.

95 <http://www.transport.nsw.gov.au/media-releases/safer-smarter-cheaper-and-more-reliable-customers-win-nsw-government-taxi-reforms>.

96 Taxi Council submission, p.25.

Their submission also suggested that an inspection regime based on time and the distance travelled by the vehicle should be considered.⁹⁷ IAG's submission to the taskforce noted that:

"... the nature of taxis and ridesharing means that they are subject to greater mileage and wear and tear than vehicles used for exclusively personal use. More time spent on the road means that the standard assumptions about the 'age' of a vehicle do not apply. For example, a Ford Falcon purchased three years ago for use as a taxi, could actually exhibit the same wear and tear as an identical vehicle twice its 'age'... For example, brake pads and tyre treads will wear down faster, increasing stopping distance and therefore increasing the risk of accidents."⁹⁸

This submission suggested guidelines for frequency of servicing and age limits be developed to assist in mitigating risks. The taskforce agrees that guidelines for industry participants may be appropriate, but in line with our approach to minimise prescription imposed by government, we would expect that any such guidelines would be best developed by industry representatives, informed by best practice. Government agencies would be well placed to assist with the provision of data and evidence to support this work, but should not mandate any requirements beyond the general light vehicle registration requirements in force across NSW.

IPART's submission stated that "compliance should be monitored and enforced using a risk-based approach, and optimal compliance regimes involve targeted inspections rather than blanket inspections".⁹⁹

The taskforce agrees that any vehicle used on a full-time basis is likely to experience greater wear and tear and require more frequent servicing. However, this is not unique to point to point transport services. For example, vehicles used by couriers in the city in stop-start traffic or other businesses which involve a lot of travel around the city and the state will experience similar levels of wear and tear. As noted above, these vehicles are only subject to annual registration inspections once the vehicle is five years old.

Given the changes proposed to the safety regime, the taskforce recommends that vehicle inspection requirements for registration purposes for point to point vehicles be aligned to those of other light vehicles. Our suggested approach to managing vehicle safety is outlined below.

Recommended approach to application and enforcement of safety requirements

The risk-based approach to inspections described in IPART's submission is consistent with the taskforce's recommended regulatory approach, which places responsibility for mitigating or eliminating risks with the entity that is best able to fulfil that responsibility, rather than relying on a blanket regulatory regime. It also allows those entities to establish to the most appropriate way of dealing with those risks, rather than specifying how standards are to be met.

Any safety equipment for wheelchair accessible vehicles should meet relevant design standards and the vehicle owner would be obliged to ensure that all equipment associated with loading and restraining wheelchairs is maintained and in good working order. The submission from Spinal Cord Injuries Australia raised concern that "the inspection certificate has a [WAT] checkbox which is only required to be 'checked' to clarify if it is a WAT being inspected and the wheelchair restraints and seatbelt are not getting checked for safety, let alone if they are actually inside the vehicle".¹⁰⁰

RMS has advised that vehicles modified as a wheelchair accessible taxi must have a certificate from an engineering signatory that states the vehicle's compliance with the applicable Australian Design Rules and that other items (seats and seatbelts, wheelchair restraint systems, wheelchair lift systems) that formed part of the modification, meet the applicable standards.¹⁰¹

As with the roadworthiness of the vehicle, inspections of ramps, hoists and restraints in wheelchair accessible vehicles would not be mandated, but each vehicle owner would be required to assess the risk specific to their own circumstances, and take whatever steps are necessary to assure themselves that equipment is safe.

97 Taxi Council submission, p.25.

98 IAG submission, p.13.

99 IPART submission, p.17.

100 Spinal Cord Injuries Australia submission, p.8.

101 <http://www.rms.nsw.gov.au/documents/business-industry/examiners/vib-36-wheelchair-accessible-taxis-wats.pdf>

For a taxi organisation or booking service an outcome-based approach to compliance might include a number of practices, including regular contact with the vehicle owner, arranging for its own inspection of vehicles or equipment, and/or deploying telematics, as described above.

Uber's practice of having an accredited third party inspect the vehicles of UberX drivers on an annual basis (inspections which Uber claims are more thorough than the current roadworthiness and Authorised Taxi Inspection Station (ATIS) inspections for taxis)¹⁰² would be an example of this approach. That said, we do not necessarily endorse Uber's method as the best practice method in all circumstances (including Uber's).

How the regulator would monitor and enforce these safety outcomes is described in chapter 9, but in general, actions taken by the regulator would be based on principles of materiality and proportionality, and targeted on identified risks.

The taskforce acknowledges that adopting this approach would represent a significant change from current practice, and strongly recommends an education campaign to inform the industry and assist the process of transition.

Categories of vehicle registration

The taskforce received submissions calling for owners of vehicles used to deliver rideshare services to declare that their vehicle is being used in this way and to pay registration at the commercial rate.

The Atra family's submission proposed that "ridesharers' should have their registrations classed as business instead of private and be made to pay higher fees"¹⁰³ The NSW Taxi Council's submission stated that "ridesharing vehicles need to be included in either the taxi or hire car category for registration and insurance purposes"¹⁰⁴

On the other hand, goCatch stated in its submission to the taskforce that "we believe the 60 per cent higher registration costs for business is a revenue grab by state government and we believe this should be standardised to private registration"¹⁰⁵

The taskforce agrees that the registration categories need to be revised. In doing so, consideration would need to be given to issues that are broader than just point to point services. The collaborative economy is introducing a wide range of opportunities for vehicles primarily registered for personal use to also be used for other commercial services, such as parcel and food delivery (this issue is also mentioned in chapter 4 on insurance). The same vehicle could fit across several of the current registration categories at any one time. In the interim, however, the taskforce agrees with IPART in that:

"... the vehicle registration scheme should be applied uniformly to point to point transport vehicles, ... given that commercial rideshare involves the use of private vehicles potentially only used part-time, it may be necessary to consider guidelines for defining 'private use' to assist the RMS in determining whether a vehicle should be charged private or business rates for registration."¹⁰⁶

The taskforce recommends that as an initial step, guidelines for defining "private use" of vehicles be developed and vehicle owners be required to nominate at registration that their vehicle is being used for point to point services.

102 Uber submission, p.21.

103 Atra family submission, p.5.

104 NSW Taxi Council submission, p.23.

105 goCatch submission, p.5.

106 IPART submission, p.9.

Process of vehicle registration

In our discussion paper, we noted that RMS requires taxi and hire car operators in regional areas who are seeking to transfer a registration plate from one vehicle to another to obtain a letter from RMS authorising them to do so.

RMS has advised that this requirement exists to ensure compliance with vehicle licensing requirements and also suggested that removing regulatory plates (the “T”, “TC” and “HC” plates) for taxis and hire cars would eliminate a great deal of red tape, including the need for the letter described above.¹⁰⁷

RMS also suggested that getting rid of regulatory plates would assist with another aspect of vehicle registration that causes frustration and adds costs for industry participants, as identified in some submissions.

Chris Gehrig Hire Car & Limousine Services’ submission identifies:

“... the possibility of an easier transfer of registration from Non Public Passenger vehicle (e.g., registered vehicle bought at auction) to HC plated and vice-versa. This presently involves cancelling any existing registration, blue slip and fresh green slip and fresh registration accordingly. The same applies in reverse. I cannot see the need to cancel and blue slip a vehicle which is already registered in NSW. The RMS registration cancellation fee alone is an unwarranted expense.”¹⁰⁸

Newcastle Hire Cars’ submission also pointed out how cumbersome this process is:

“... rego transfers and renewal procedures are cumbersome and expensive and the elimination of permission letters, duplicate blue slips and green slips for vehicle change-overs would be beneficial to reducing time, costs and unnecessary bureaucracy.”¹⁰⁹

Under our proposed regulatory regime, booked-only vehicles will be permitted to structure their operations in any way they wish. They will not need to identify as “tourist vehicles” or “hire cars” as they do now, and there will be no need for a registration plate which identifies them as such. It will be important for taxis to be clearly identified as such, but there is no reason why a “T” or “TC” plate needs to be required.

The taskforce acknowledges that the current registration plates are used for enforcement purposes, for example, for access to bus lanes, which are outside the scope of our review. However, we consider that advances in technology, specifically, automatic number plate recognition, are likely to overcome this issue. An alternative may be to use a sticker or some other kind of permit displayed in the windscreen, as suggested by goCatch.¹¹⁰

Newcastle Hire Cars submission also asked: “[W]hy should RMS charge additional registration fees for taxis and hire cars – ordinary citizens can pay six monthly so why the penalty rates for taxis and hire cars?”¹¹¹

Advice from RMS suggests that RMS policy, not law, prohibits six month renewals for taxis, stand-by taxis and hire cars. However, besides affecting the point to point transport industry, a change to this policy would impact the CTP insurers in terms of business process and technology system changes.

The taskforce strongly supports a change in policy that would permit half-yearly payments, but it is clear that consultation with all affected stakeholders will be necessary and sufficient lead times allowed to implement such a change.¹¹²

It would appear from the above that there are many aspects of the processes for registering point to point vehicles that could be improved to remove unnecessary cost and red tape for industry. The taskforce recommends that the NSW Government updates these processes with a view to removing the requirement for special number plates and reducing red tape more broadly for industry participants.

107 Information from RMS.

108 Chris Gehrig Hire Car & Limousine Services submission, p.2.

109 Newcastle Hire Cars submission, p.14.

110 goCatch submission, p.4.

111 Newcastle Hire Cars submission, p.2.

112 Information from RMS.

Security measures for taxis

The NSW Government regulates the security of taxis to mitigate the risks associated with the anonymity of point to point transport services that are hailed or hired from a rank. In climbing into the passenger seat of a taxi that has been hailed in the street or hired from a rank, we are breaching one of the strongest taboos in our society – not getting into a car with a stranger. (Of course, in the absence of security measures, it would also be dangerous for drivers.) This is fundamentally different from a booked service, where there is a clear documentary or electronic record and the prospect of repeat business.

There are requirements relating to the identification of taxis (roof sign and light, livery) to ensure that customers can clearly understand that they are hiring a genuine taxi. It is also an offence for anyone to falsely represent they are legally providing a taxi service. Vehicles used as taxis are required to have an emergency boot release, security cameras, a duress alarm and a vehicle tracking device for the safety of passengers and drivers.¹¹³ Taxis are required to be regularly inspected to ensure that they meet these requirements.

Taxi networks are required to ensure that duress alarms operate properly and to provide a prompt response when the system is activated. A network must also ensure that its equipment is capable of producing video recordings from the security camera at all times the vehicle is being used as a taxi. Taxi operators are required to be affiliated with a taxi network to access these security services.

Vehicle requirements

Except for those providing WAT services, taxis must have four side doors. There is a strong case for retaining this requirement. The taskforce heard from female customers that inappropriate behaviour by the taxi driver was a reason for sometimes not feeling safe and secure.¹¹⁴ Due to the anonymity of these services, the taskforce considers that the existing requirement that taxis have four side doors should be retained, so that customers are able to choose a seat in the vehicle in which they feel safe.

We also consider that being able to readily identify a vehicle as a genuine taxi is of paramount importance for customer safety. Those taking a rank & hail trip are arguably less vulnerable because of additional safety equipment in the vehicle (see below for more detail). Customers in this situation should be able to clearly understand that they are getting into a vehicle which has the appropriate safety equipment in place.

It is important for customers to know the name and contact details of the taxi organisation with which the vehicle is associated. The taskforce believes that this information should be prominently displayed on the outside of the taxi in a manner that can easily be seen by customers and other members of the public. This clearly associates the vehicle with the brand of the taxi organisation and should incentivise them to ensure that the services provided are safe.

That said, the current identification requirements for taxis are very prescriptive, with specific regulation of the operation and the materials to be used for the roof sign and lights, with a requirement that the regulator approve the colour that the vehicle is painted.

This prescription limits how taxi organisations may indicate to their customers that the vehicle they are using is a taxi and that it is available for hire. We therefore recommend that the regulation on how taxis are identified should be much less prescriptive, subject to complying with any other legislative requirements (such as the Disability Standards for Accessible Public Transport). We also recommend that the name and contact information for the taxi organisation should be required, as well as retaining the use of the word “taxi” on the exterior of the vehicle in an appropriate position.

There should be strong penalties in place for anyone representing that they are providing a taxi service when the vehicle they are using is not a licensed taxi (with the requisite security equipment) and that compliance personnel actively monitor taxi ranks and hire car bays at the airport and elsewhere to enforce this part of the law.

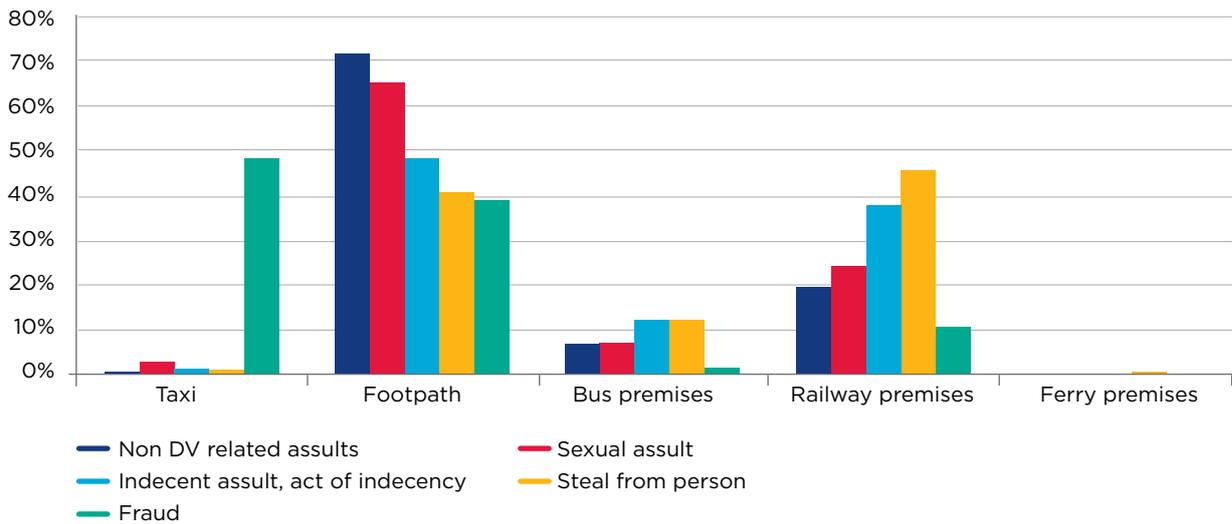
¹¹³ These requirements vary depending on where the taxi operates and whether it is connected to an authorised taxi network.

¹¹⁴ Anonymous submissions.

Requirements for security equipment in a taxi

Analysis of data provided by the Bureau of Crime Statistics and Research (BOCSAR) relating to crimes committed in taxis, railway premises, bus premises, ferry premises and footpaths suggests that overall, taxis are relatively safe. There are relatively low rates of violent offences, robbery and sexual assaults. We note that fraud is more likely to be committed in taxi than in the other locations analysed, and we expect that this reflects the anonymity of the commercial environment in the vehicle.¹¹⁵

Figure 2. Proportion of selected crimes occurring in taxis, on public transport and on the footpath

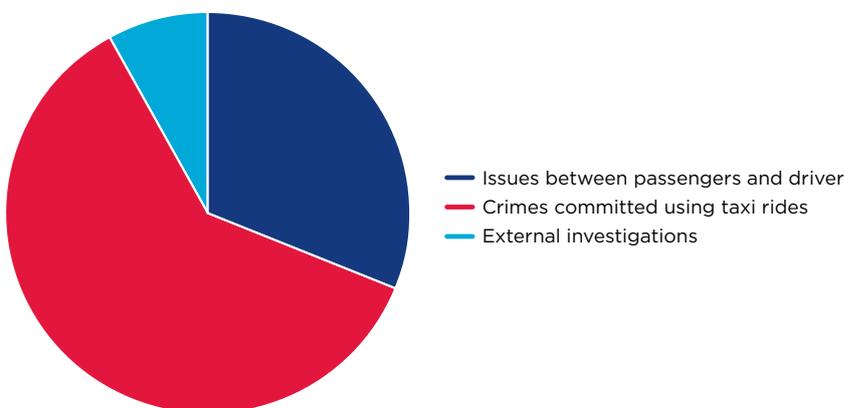


Source: BOCSAR. All data is for the period April 2010 to March 2015.

It is likely that that the presence of security cameras has contributed to low rates of violence in taxis. One operator told us in a submission that “cameras have been a great deterrent”.¹¹⁶ This sentiment was expressed strongly by taxi drivers, operators and networks at all of our consultation meetings.

A Sydney taxi network provided data to the taskforce on the use of their security systems. The data provided showed an average of 15 downloads of security camera footage per month, the great majority of which are at the request of police.¹¹⁷

Figure 3. Security camera downloads requested by NSW Police from a Sydney network



Note: As reported to the taskforce from one Sydney taxi network.

¹¹⁵ How long a person spends in each location (train, bus, ferry, taxi, footpath) should be taken into account, as well as other factors such as how many people are likely to be present in each location.

¹¹⁶ Dennis Gouskos submission.

¹¹⁷ A Sydney network provided information to the taskforce on the basis that it would be used anonymously in our report.

For the police requests, around 30 per cent are used to investigate issues between passengers and drivers – the network told us that more commonly this involves a passenger robbing or assaulting a taxi driver, rather than an assault on the passenger.

Around 60 per cent of downloads are used to investigate crimes during which a person of interest used a taxi. An example given to the taskforce involved an alleged murderer who fled the scene of the crime in a taxi and the camera downloads were used as evidence.

The remainder of downloads are where the security cameras capture footage of crime in the vicinity of the taxi. This is generally used in major crime cases, such as murder, and in the example given to the taskforce, still images from the external cameras of the cab were used to provide evidence that a perpetrator was at the scene of the crime at a particular time.

The NSW Taxi Council’s submission noted that “the rules of evidence are critical to successful prosecution, which in turn dictates how some of this equipment can be handled”.¹¹⁸ The taskforce acknowledges that responding to these requests can be resource intensive for taxi networks, and recognises that these security systems not only provide customers and drivers with security, but are useful resources in law enforcement more broadly.

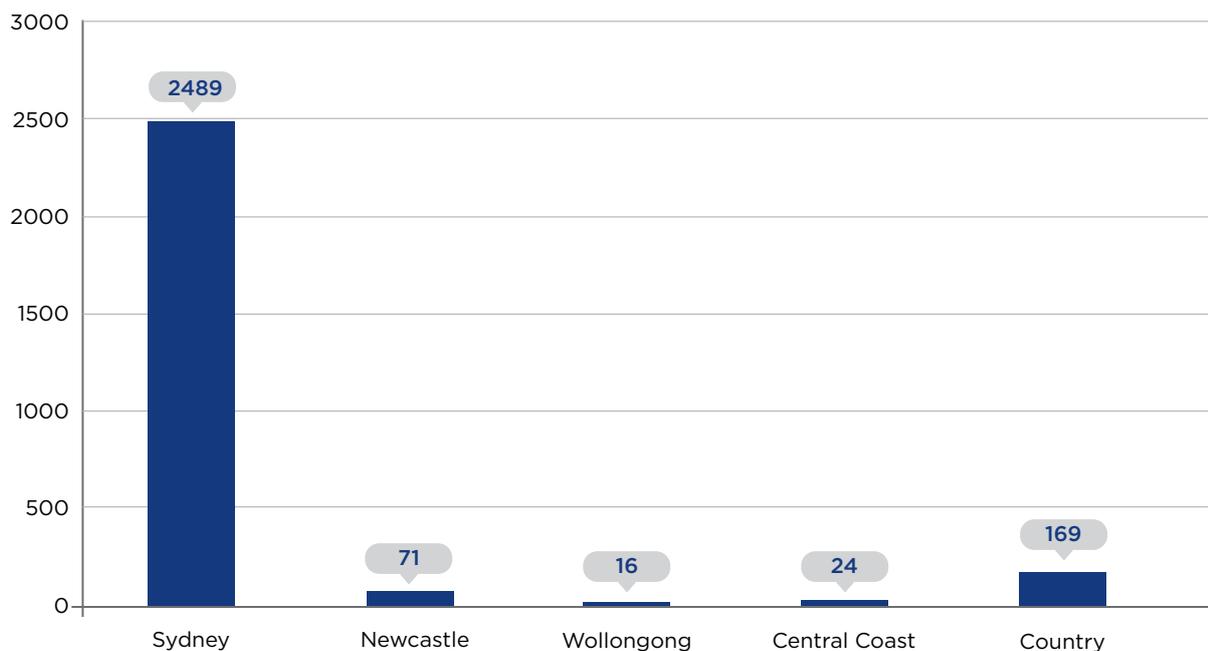
With the broader community benefits of security cameras in mind, the taskforce recommends that working security cameras should be required in every taxi providing rank & hail services in NSW.

Vehicle tracking devices are required in Newcastle, Wollongong and the Central Coast. Again, all industry participants we spoke to were supportive of retaining some kind of vehicle tracking device in those locations.

Currently, duress alarms are required wherever a taxi is affiliated with a taxi network. Data provided by a Sydney network indicated that over a 12-month period, duress alarms were activated on 915 occasions. While the majority of these were false alarms, genuine emergencies occurred about once a month over this period, and the taxi network was able to respond, notifying police where appropriate.

The taskforce reviewed the number of recorded criminal incidents in taxis across the State for the last five years.

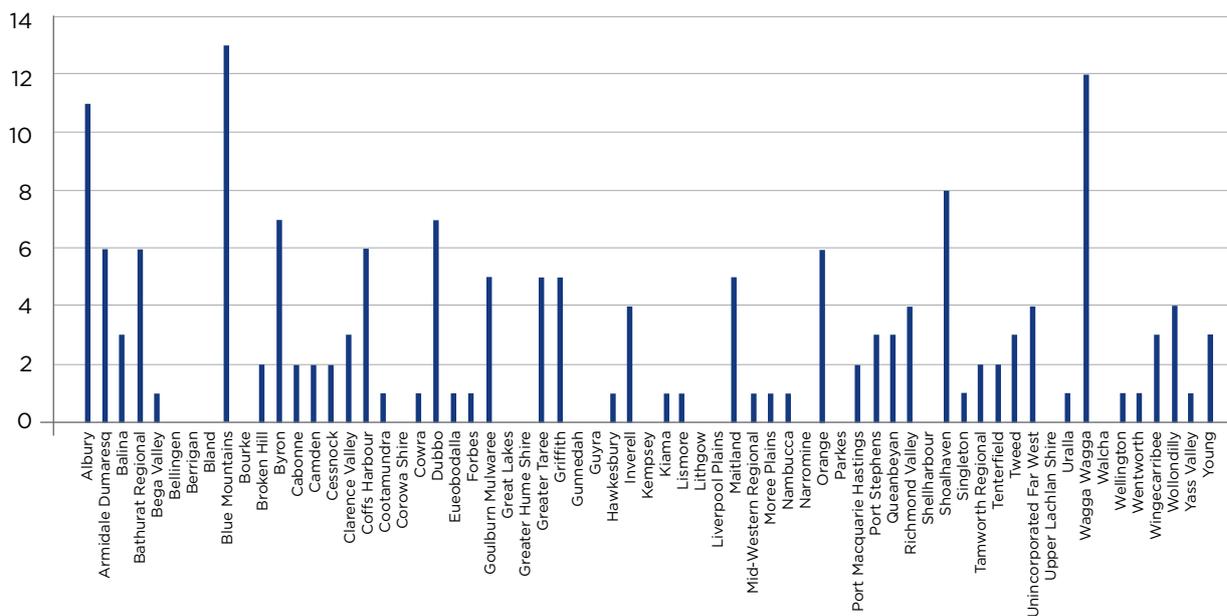
Figure 4. Criminal incidents in taxis as recorded by NSW Police Force: April 2010 – March 2015¹¹⁹



¹¹⁸ NSW Taxi Council submission, p.24.

¹¹⁹ NSW Bureau of Crime Statistics and Research.

Figure 5. Criminal incidents in taxis as recorded by NSW Police Force, country areas by LGA: April 2010 – March 2015¹²⁰



The taskforce considers that the number of criminal incidents in Sydney, Newcastle, Wollongong and the Central Coast justify the requirement that taxis are fitted with vehicle tracking equipment and duress alarms (or their equivalents – see below) in any taxi providing rank & hail services in those areas. In country areas, this should be determined by the taxi organisation, based on their own assessment of risk.

In circumstances where security systems for rank & hail are not operating as they should be, the taxi would not be allowed to accept hails or hirings from a rank, and there should be harsh penalties for any such breach. However, the taskforce is of the view that a taxi driver should still be able to accept and carry out booked trips, provided the vehicle otherwise meets all the requirements associated with providing a booked service.

In terms of an emergency boot release lever, which is required for the safety of drivers, we have not been able to gather any local evidence one way or another as to whether they are necessary or effective. Nor did we receive any submissions commenting on this issue. We understand that it was first required due to an incident which led to the death of a driver several years ago, and there have been a small number of incidences of drivers locked in the boot of the vehicle in other jurisdictions in the intervening period.

However, on balance, we believe this should not be mandated. The vehicle owner and the taxi organisation, in consultation with drivers, should determine what measures, if any, are required to protect their drivers from the risk of being locked in the boot. This might be a second automatic boot release remote control that the driver keeps in their pocket, or some other measure, depending on the circumstances.

Standards for cameras, tracking devices and duress alarms

Some submissions discussed the specifications or standards of security equipment in taxis.

The NSW Taxi Council stated that: “The key to the safety systems for a taxi is that, unlike mobile phones, they are fixed to the vehicle and cannot be removed, tampered with or switched off. At all times that the driver is in the vehicle and the vehicle is operating, these safety systems are active.”¹²¹

Newcastle Hire Cars also recognised these benefits: “[S]martphones are one thing but there is no substitute for embedded GPS tracking. Costs more to start but is more maintenance free and extremely difficult to remove or alter.”¹²²

¹²⁰ NSW Bureau of Crime Statistics and Research.

¹²¹ NSW Taxi Council submission, p.24.

¹²² Newcastle Hire Cars submission, p.16.

On the other hand, in response to the question as to whether the current security requirements were appropriate, the Australian Taxi Drivers' Association (ATDA) stated:

*"No they are not. And, no, they need not be as costly as the monopolistic subserving system, has developed ... What we would have is more than a bad recording after the event, or a presumed suppression of possible events, but the very simple fact of "recording of all data", and its on-line accessibility."*¹²³

The taskforce agrees that any mandated security systems for taxis should be associated with the vehicle, not only the customer or the driver, noting that this should not prevent additional security features from being deployed, for example, where vehicles are routinely being used to transport young children.

However, the taskforce agrees with IPART that the prescriptive requirements for these security systems make them expensive, and prevent innovation, as they are technology-specific.

*"The current requirements for taxi vehicle identification, communication equipment, and vehicle monitoring, through both in-vehicle security cameras and remote tracking, would appear to achieve safety and security objectives, but those objectives could potentially be achieved more cost-effectively if the requirements were less prescriptive."*¹²⁴

In practice, while there are several security camera models available, the taskforce understands that there is very little diversity in the other security equipment used. The current specifications for taxi security systems also require each element of the system to be connected to the others (and to the meter).¹²⁵ For instance, the specifications require that:

- the camera system alarm and the duress alarm can both be activated using the same switch,
- the camera is connected to the taxi meter, and
- the vehicle tracking device must operate in conjunction with the duress alarm system.

The taskforce considers that the mandated interconnectedness of these systems limits the scope for companies to offer alternative products and develop new technological solutions in competition with current systems. It is likely to have also limited the development of improved taxi meter technology. This lack of competition is potentially keeping costs higher. While some developers may find benefits in persisting with an interconnected approach, we do not believe that this should be mandated by the Government.

The taskforce is aware of other technological solutions providing security for taxis such as a system which claims that it "can broadcast feeds from your camera, start video chats, share GPS, and relay content from devices such as security cameras, vehicle sensors"¹²⁶ We were also given information about another taxi security system, being trialled elsewhere in Australia, which could prove to be a very cost effective way of achieving the same outcome.

These developments suggest that technology will continue to evolve and offer more flexible solutions, and this should be encouraged. As the price of security systems fall with new technology and increasing competition among security providers, it will be easier for smaller taxi organisations to establish themselves.

We have not had time to investigate these issues in detail, and a more thorough investigation is certainly warranted. We therefore recommend that the specifications for security systems be revised as a matter of priority, with a view to ensuring that, as much as possible, they are outcome-based and flexible enough to allow technological innovation.

The NSW Taxi Council "strongly believes that the current standards for safety systems for taxis are appropriate and effective, and the taxi industry will actively resist any watering down of these standards accordingly".¹²⁷

¹²³ ATDA submission, p.18.

¹²⁴ IPART submission, p.10.

¹²⁵ <http://www.transport.nsw.gov.au/sites/default/files/b2b/taxi/taxi-security-system-specifications.pdf>.

¹²⁶ <http://beamsmart.com/>

¹²⁷ NSW Taxi Council submission, p.24.

The intent of the taskforce's recommendations is not to water down standards but to give greater flexibility to vehicle owners and taxi organisations in achieving safety outcomes in a more cost-effective way, given the current cost burdens faced by the taxi industry and ultimately borne by the customers.

In the interim, we acknowledge that it will be necessary to keep the existing standards, but encourage Government to quickly explore the option of giving greater flexibility in achieving security requirements.

Application of security standards for rank & hail

Under both the 1990 and the 2014 legislation, taxi operators are obliged to affiliate with a taxi network for the provision of security functions. Ingogo's submission to the taskforce noted that:

"... currently, the obligation for taxi operators to belong to a network to access security services raises the ongoing costs of these services. If security services were unbundled from the network service offering, other security companies could offer their services to taxi operators, increasing competition and driving down prices."¹²⁸

Several of the Sydney-based taxi operators who met with the taskforce also expressed this view – they wanted to be able to purchase security separate from other services, and some asked that mandatory affiliation be removed so that they could make their own security arrangements.¹²⁹ The Australian Taxi Federation submission also called for mandatory affiliation with networks to be removed.¹³⁰

In relation to mandatory network affiliation, goCatch suggested that:

"... given the safety requirements which are met by the operator we can see no logical need for this requirement from a public safety perspective but we can certainly see that it's a very useful provision for the taxi networks to protect their key revenue stream of radio fees from operators."¹³¹

Under current arrangements, taxi networks in Sydney, Newcastle, Wollongong and on the Central Coast must ensure that every taxi connected to its network is fitted with a vehicle tracking device that complies with the standards and is in proper working order.¹³² Networks must also ensure that users are trained in how to operate the duress alarm system.

In relation to security cameras, networks must be capable of producing video recordings for any taxi connected to the network. However, it would appear to the taskforce that networks currently have no obligation to ensure that the camera equipment is operational, despite the fact that their brand is associated with the vehicle and the service and any safety outcomes.

In fact, other than a general requirement, which applies to all public passenger vehicles, that the operator must ensure that the fittings of the vehicle are in good condition and fully operational,¹³³ there appears to be no specific requirement that taxi security cameras are working while the taxi is in service.¹³⁴

The main way the Government assures itself that vehicle security requirements for taxis are being met is through the ATIS inspection regime. The frequency of the inspection depends on the location of the taxi – however in Sydney, this inspection is mandated three times a year.

For taxis in Sydney, Newcastle, Wollongong and the Central Coast, the inspector must cite documentation from the network which specifies that the security camera, duress alarm and tracking device have been tested in the past 14 days.¹³⁵ From the ATIS manual, there does not appear to be any requirement for the network certificate to confirm that the equipment was working when it was tested, and we can only assume that this is what is done in practice.

¹²⁸ Ingogo submission, p.4.

¹²⁹ Taskforce meetings in Sydney, Meetings with Taxi Operator and Drivers Association – 19 July 2015, with Australian Taxi Drivers Association – 19 July 2015, and meetings at Rooty Hill RSL Club – 17 August 2015.

¹³⁰ Australian Taxi Federation Inc submission, p.6.

¹³¹ goCatch submission, p.2.

¹³² Ministry of Transport, Guide for authorised taxi-cab network providers and taxi-cab network services standards for the Sydney metropolitan, Newcastle and Wollongong Transport Districts and the local government areas of Gosford and Wyong, May 2008, p.23 (Taxi network standards).

¹³³ The taskforce understands that an operator may be issued with a non-compliance notice and/or a penalty infringement notice, if a security camera is found not to be working on inspection by an authorised officer.

¹³⁴ The taskforce reviewed the Regulation, the Authorised Taxi Inspection Station Manual, the Network Standards and the Taxi Security System Specifications.

¹³⁵ Authorised Taxi Inspection Station: Manual of Inspection Standards for Taxi-Cabs, pp. 17, 18, 20.

While cameras are required in other parts of NSW, there is no requirement for the network to provide a certificate that it has been tested. ATIS inspectors can also visually inspect cameras to establish whether the indicator light is flashing as it should when the vehicle door is opened, and to check for condensation in the cameras.

For duress alarms, where they are fitted, the network is required to submit a certificate stating that the alarm has been tested. The examiner can also reject a vehicle at inspection if the operator is “unable to demonstrate or provide evidence that alarm works”.¹³⁶

The taskforce considers that frequent inspections are not contributing a great deal to ensuring that taxis are secure, and they add unnecessary cost. For instance, between 2011 and 2014, at the required periodic inspections, the security camera was found to be not working properly in more than 700 cases. The current reliance on blanket inspections appears to be failing to ensure accountability for safety outcomes.

In line with our other recommendations for improving accountability for outcomes, we recommend that mandated regular inspections by entities nominated by regulation (ATIS examiners), or certification that the equipment has been checked, should be removed.

Instead, responsibility for mitigating or eliminating risks associated with security equipment should rest with those entities that have the management, control, influence and information to fulfil that obligation.

Those entities would primarily be the taxi organisation, the vehicle owner and (to a lesser extent) the driver. Under the taskforce’s proposed model, a taxi organisation, as the owner of the brand associated with the service, would be obliged to ensure that the security systems (including the cameras) are installed, meet relevant standards and are in working condition.

As described in chapter 1, the taskforce’s proposed regulatory framework is designed not to be business-model specific. A taxi organisation would not have to conform to any particular business structure or other prescriptive requirement before it commences operating. This means a taxi organisation may not resemble a network or cooperative as they exist today. It might be a single operator with a fleet of vehicles, a confederation of operators, or indeed an existing network or booking service.

However, as the brand associated with the service, the taxi organisation would be required to have systems and processes in place to assure themselves that these security systems are working as they should. These would have to be appropriate to that organisation’s assessment of risk. We expect that this would involve regular contact with the vehicle owner and drivers, as necessary. The taxi organisation would also need to have the capacity to respond to the activation of duress alarms and access camera footage and to keep relevant records.

This might be done by contracting with external providers, but this would not absolve the taxi organisation of their obligations to ensure the safety and security of their fleet.

¹³⁶ RMS, ATIS Manual, p.17.

4. Insurance

Effective insurance cover is essential for drivers, passengers, vehicle owners and the general community in the event of an accident, to recover costs associated with personal injury or property damage. There is also a need to ensure that insurance premiums reflect risk, partly for reasons of fairness, but also to ensure that taxi industry participants are aware of the economic and social consequences of their actions, and can take preventative steps in order to reduce costs.

The section below deals with the taskforce's recommendations on insurance.

Recommendations

The taskforce recommends that:

26. The Government's review of profits and competition in the CTP insurance market be released as soon as possible.
27. The framework for establishing CTP cover for point to point vehicles be reviewed in recognition of the more flexible use of vehicles across the current classifications, to consider a system that better rewards safer behaviours.
28. All point to point vehicles be required to have a third party property damage insurance policy which indemnifies the driver to a minimum level of coverage, to be determined in consultation with stakeholders. In the meantime, the existing level should be maintained.

Compulsory third party insurance (CTP) Insurance

Current arrangements for CTP insurance for taxis

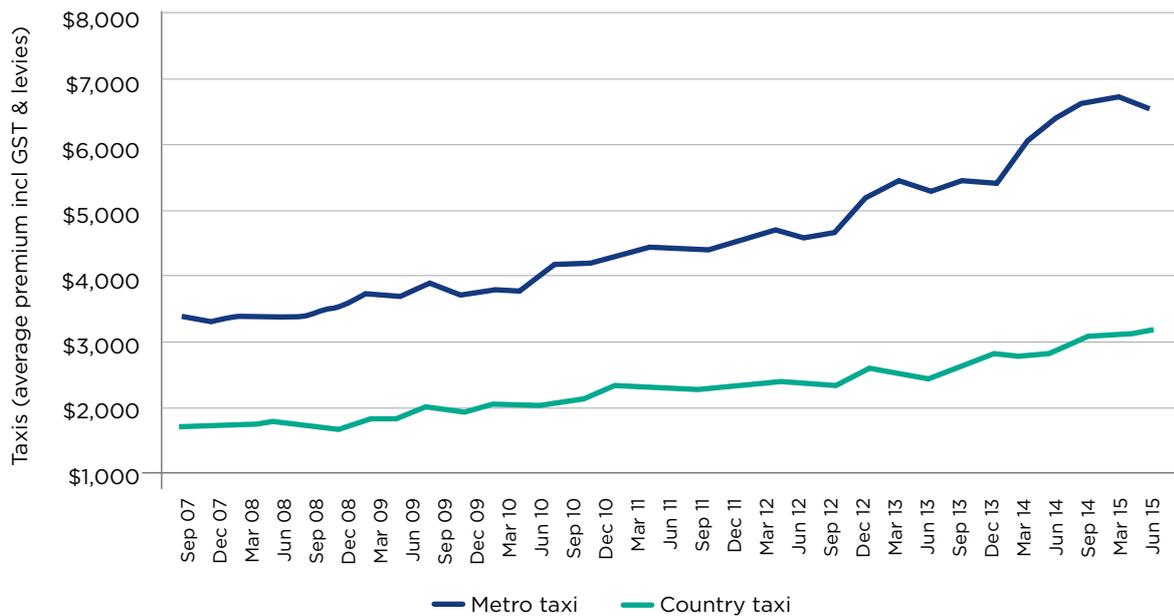
Submissions to the taskforce from taxi industry participants highlighted the high cost of CTP insurance, and many called for this cost to be reduced. The NSW Taxi Council provided the taskforce with a more detailed submission on this issue presented in another forum. This noted that the high cost of CTP insurance is having an impact on industry viability, fares and affordability of services for passengers:

"Insurances now represent up to 8.9% of all costs for taxi operators, and is the fourth highest cost category for owners; with only driver labour, lease costs and fuel being higher. As a consequence, the NSW Taxi Council believes that CTP insurance is disproportionately high relative to the overall cost of operating a taxi and is contributing to ongoing viability issues within the industry overall. Furthermore, CTP insurance costs are ultimately passed on to taxi customers through increases in taxi fares, which in turn has contributed to reduced affordability for passengers who use and/or rely upon taxi services."¹³⁷

Information provided by the State Insurance Regulatory Authority (SIRA) shows that CTP premiums have increased for taxis due to increasing claim numbers and claim costs, which helps to explain why they have become such a large cost burden on operators.

¹³⁷ Reforms to the NSW Compulsory Third Party Green Slip Insurance Scheme, Submission by NSW Taxi Council: Attachment 11 – April 2013, pp.2,5.

Figure 6. CTP insurance premium increases for taxis 2007 to June 2015¹³⁸



The 2014 survey of Sydney taxi drivers and operators undertaken for IPART found that CTP insurance costs over \$5,400 annually and is the major component of total insurance costs of over \$11,000 each year.¹³⁹ Both Coffs Harbour Taxis and Goulburn Radio Cabs submissions also pointed to the high cost of CTP cover in country areas. Coffs Harbour Taxis suggested that operating costs for point to point transport providers could be reduced “via fixed maximum liability for CTP claims”.¹⁴⁰

Compulsory third party insurance covers drivers against injuring or killing someone else while driving a vehicle. All vehicles in NSW are required to be covered by such a policy.

The cost of a base level CTP insurance premium (for a car in the Sydney metropolitan region or a “class 1” vehicle) is set by private, licensed insurance companies in a competitive market. SIRA uses the frequency of claims and average claims costs to determine premium relativities for vehicle classes, including for taxis (class 7) and private hire cars (class 8).

Taxis in Sydney, Newcastle and Wollongong currently have a premium relativity of 1,151, compared to 100 for class 1 cars, reflecting their higher risk of claims. IPART’s submission notes that from February 2016, this relativity will increase to 1,188.¹⁴¹ Other taxis have a relativity of 629, as claims risk is lower in country areas. Hire cars have a lower premium relativity, ranging from 121 in Sydney to 87 in country areas. Insurance companies are able to compete to charge premiums for vehicles within a range set by SIRA, around these relativities.

As noted above, insurance premiums for CTP are set taking into account the risk of vehicles in a particular class being involved in an accident which would result in a claim against the policy. The relativities described above show that Sydney taxis have a risk rating almost 12 times higher than passenger vehicles garaged in Sydney.

Data provided by SIRA has given the taskforce valuable insight as to why this may be the case. Firstly, because there is a relatively small number of taxis compared to the number of private passenger vehicles (class 1 vehicles), the risk is spread across a smaller pool of vehicles – there is much less likelihood of cross subsidisation in class 7 as there is in the current class 1.

¹³⁸ Information provided by SIRA.

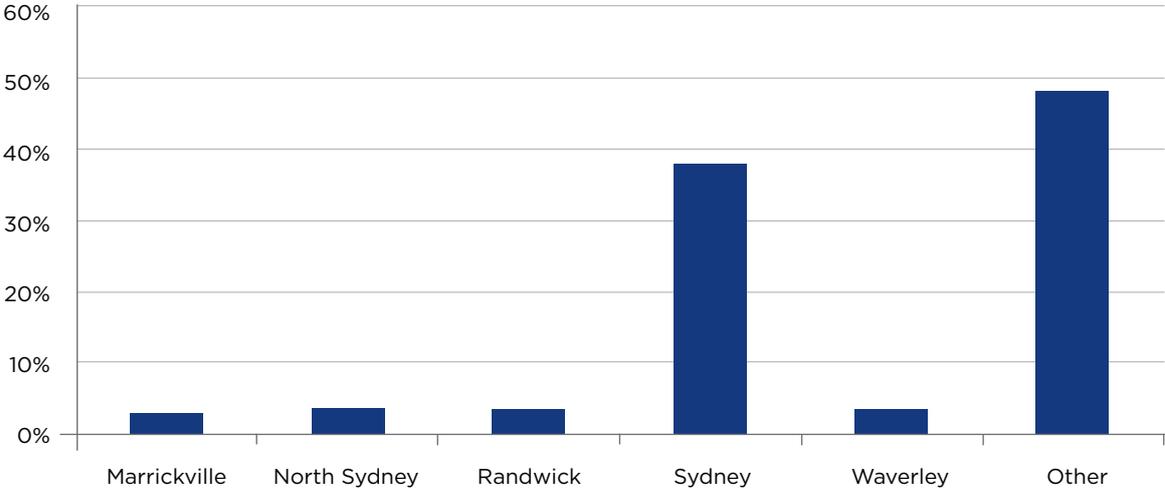
¹³⁹ 2014 Survey of Taxi Operators and Drivers (Sydney Metropolitan Transport District) the CIE prepared for IPART, February 2015.

¹⁴⁰ Coffs Harbour Taxis submission.

¹⁴¹ IPART submission, p.11.

Further, just under 3 per cent of taxi CTP policies are claimed against each year, compared with under 0.3 per cent of policies for all metropolitan passenger vehicles.¹⁴² Some of this can be explained by the fact that taxis are on the road a lot more than other cars.

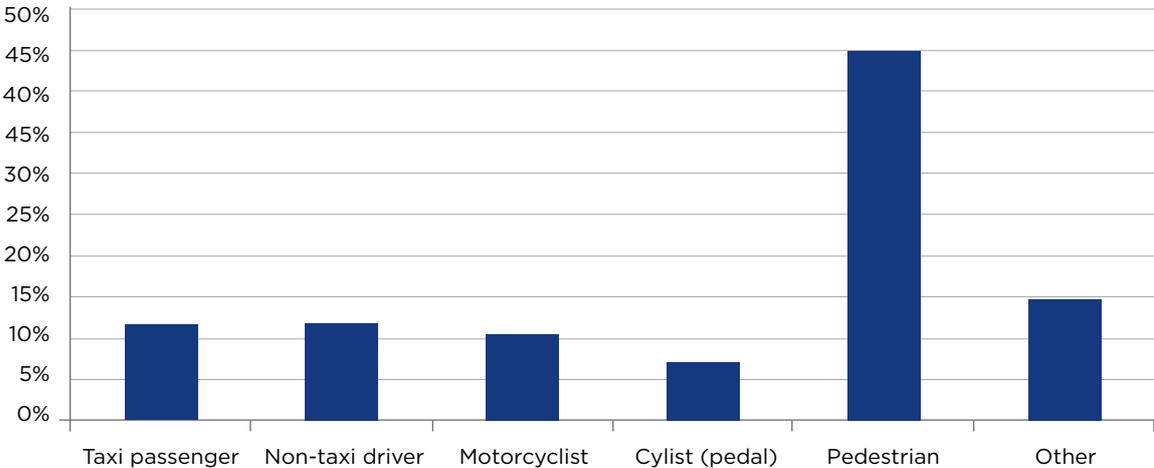
Figure 7. Top 5 NSW Local Government Areas by taxi crash sites



Note: Where the taxi vehicle is at fault. For CTP claims 2009–2013. “Other” is all other LGAs in NSW.

The data also show that of the accidents in the Sydney LGA in the five years to 2013, 45 per cent of casualties, the largest grouping by far, were pedestrians.

Figure 8. Top 5 Categories of people injured by taxis in Sydney Local Government Area



Note: Sydney LGA only. Where the taxi vehicle is at fault. For CTP claims 2009–2013.

142 Information provided by SIRA.

Where and when taxis provide services are also relevant in understanding the high cost of taxi CTP claims. SIRA data show that taxis are more likely to be involved in accidents resulting in a CTP claim in the Sydney LGA, with 38 per cent of all casualties in NSW occurring in this area.

A significant proportion of these casualty crashes, where a taxi was the at-fault vehicle, occur in the early hours of Saturday and Sunday mornings (midnight to 4am).¹⁴³ No doubt this reflects the nature of taxi work where drivers are likely to be looking for a fare or standing for hire in late-night entertainment precincts at times of high pedestrian activity.

The taskforce also examined Transport for NSW crash data to identify any potential causal factors – such as fatigue, speed or alcohol use by a driver involved. The data indicated that taxi drivers were less likely to be involved in an injury crash where one of these factors was present. For a fatigue-related crash, data collected over a 10-year period showed that fatigue was a factor in 1.7 per cent of taxi crashes while it was a factor in 4.6 per cent for other cars.¹⁴⁴

SIRA suggested that there may be some increased risk because the driver of the vehicle is most commonly not the owner (and therefore does not bear the cost of the CTP premium) and could be less careful with the use of the vehicle. While our aim is not to have a regulatory framework which prescribes a particular industry structure, we are optimistic that our other recommendations will make it easier for drivers to provide services in vehicles that they own in a more flexible way, which should assist in bringing down insurance costs.

The taskforce also notes that SIRA has facilitated a roundtable discussion between the taxi industry and other relevant stakeholders such as the City of Sydney, road safety experts, hoteliers and police to examine the issue and develop initiatives to try and reverse the crash trend and to reduce premiums. Involving these various stakeholders recognises the need to use a variety of approaches to the issue, including urban planning as well as behavioural considerations and we hope that the various parties are able to identify and follow through on measures that arise from these discussions.

Competition in the CTP insurance market

The taskforce also heard from an insurance broker and SIRA¹⁴⁵ that as part of the process for setting premiums for CTP insurance, insurers use forecasts based on existing claims. Claims often take several years to resolve, which means that some estimation is involved in how much those claims will end up costing. The taskforce was told that due to the length of time taken to finalise claims, insurers tend to be conservative in estimating the costs they will incur, so that potentially, insurance premiums could have been lower if there was greater certainty in relation to anticipated claims liabilities.

The taskforce understands that concerns about this issue have been raised over a number of years and we note that the issue has been dealt with a number of times by Parliamentary committees.

Most recently, the NSW Parliament's Standing Committee on Law and Justice's Twelfth review of the role and functions of the Motor Accidents Authority noted that insurer profits has been an issue of ongoing concern for many stakeholders over all 12 committee reviews. The committee recommended that the Minister for Finance and Services ensure there is a prompt review of the high level of insurer profits, and that all relevant stakeholders are consulted.¹⁴⁶ The Government accepted this recommendation.

In the same report, the Committee also highlighted concerns about competition in the CTP insurance market. It noted:

“... the declining number of insurers and possible barriers to entry. These factors can impact on long term sustainability of a private CTP market. We recommend that stakeholders be consulted during the review of the Motor Accidents Compensation Act to identify barriers to new entrants and any means to encourage greater competition while maintaining long-term scheme sustainability.”¹⁴⁷

¹⁴³ Information provided by SIRA.

¹⁴⁴ Information provided by Transport for NSW.

¹⁴⁵ Meeting on 1 October 2015.

¹⁴⁶ Twelfth review of the exercise of the functions of the Motor Accidents Authority, NSW Legislative Council July 2014, p.38.

¹⁴⁷ Twelfth review of the exercise of the functions of the Motor Accidents Authority, NSW Legislative Council July 2014, p.38.

The Government also accepted this recommendation. We note that the market for CTP insurance for taxis is even more concentrated. Despite there being several large insurance providers offering CTP cover to the broader community, almost all policies for taxis are provided by two insurers.¹⁴⁸

(The taskforce was told that this has largely resulted from the channels through which operators typically arrange for cover. Both SIRA and the Taxi Operators and Drivers Association noted in meetings with the taskforce¹⁴⁹ that the two largest taxi networks in Sydney bundle insurance using a small number of specialist brokers as part of a package associated with the taxi – such as the actual vehicle itself, the fit out, and other network services.)

We acknowledge that the Government has accepted these two recommendations and is hopeful that the reviews agreed to will help to bring about sustainable insurance costs for point to point transport providers. We understand the review is in its final stages. We recommend that the agreed review of competitiveness of the CTP insurance market be released as a matter of priority.

However, the taskforce also acknowledges that premiums are high because of the rate at which taxis are causing injuries, and that this is likely to also act as a barrier to competition, as any insurer writing taxi business will have a greater likelihood of receiving a claim. Therefore, reducing claims remains the priority issue for the taxi industry.

CTP going forward

Submissions to the taskforce suggested a variety of potential solutions for the classification of point to point vehicles for CTP purposes.

The current classes for CTP for smaller passenger vehicles largely reflect how point to point services are categorised under the 1990 Act – class 7 is for taxis and class 8 is for hire cars. Representatives of the established industries strongly advocated the case for classifying vehicles along similar lines to the way it is done now, on the grounds of competitive neutrality.

The NSW Taxi Council's submission suggested that all private for hire vehicles need to be in the relevant classification for CTPI purposes (class 8) and that all taxi services need to be in class 7.¹⁵⁰ Likewise, the NSW Hire Car Association noted:

“The hire car industry would not look favourably on insurances that would be perceived to be loosely created as a token cover for new classes of service and which were not commensurate with the levels of insurance currently required for hire car operators and other industry suppliers.”¹⁵¹

On the other hand, Uber's submission argues that their drivers' vehicles should be classified in the same risk profile as private vehicles because:

“The relative risk profile of ridesharing is essentially comparable to the risks applicable to passenger vehicles for strictly personal use. Ridesharing deploys underutilised personal assets and offers a flexible and supplementary, rather than primary, source of income meaning that vehicles will generally engage in ridesharing only when they are not otherwise deployed for personal or occupational use. Ridesharing is ancillary to the primary application of the vehicle.”¹⁵²

IAG (which is already providing property insurance coverage for Uber drivers) identifies two possible approaches:

- Classifying ridesharing vehicles as class 1 vehicles, and collecting data that can be used after 12–24 months to review the premium relativities using claims data.
- Creating a separate “ridesharing” class of vehicles, which would also be priced as class 1 cars, for the first 12 months.¹⁵³

148 Information provided by SIRA.

149 Meetings held separately on 1 October.

150 NSW Taxi Council submission, p.26.

151 NSW Hire Car Association submission, p.11.

152 Uber submission, p.20.

153 IAG submission pp.9–10.

This approach is similar to that employed at present for CTP classification for car sharing vehicles (e.g., GoGet).

In contrast to this approach, Suncorp's submission makes the point that: "It is essential ridesharing vehicles are correctly classified. Failure to do so would create unfair cross subsidies between low and high risk vehicles, which would ultimately see individual consumers paying the cross subsidies for the high risk vehicles."¹⁵⁴

As a possible way of dealing with this issue, the Insurance Council of Australia's submission suggested that "ridesharing vehicles be separately classified, so that at registration, vehicle owners who intend to provide ridesharing services are required to register their vehicle on this basis and pay the relevant CTP premium for the ridesharing vehicle class".¹⁵⁵

Similarly, the NRMA's submission suggests that:

*"... as a first step, NSW Roads and Maritime Services (RMS) and the Motor Accidents Authority (MAA) should establish a new category for vehicle registration and CTP insurance to cover all pre-booked point to point services operating on a fee for service basis. This should absorb the existing category for hire cars and would also include ridesharing vehicles."*¹⁵⁶

IPART's submission also recognised that classifications may need to be reviewed: "If the regulatory framework for point to point transport changed to distinguish between booked and non-booked services, rather than using existing designations such as 'taxi', 'hire car' and so on, the MAA may have to review its categories for risk rating."¹⁵⁷

The taskforce considers that the current classifications are unlikely to be appropriate if our proposed regulatory framework is taken up, as vehicle usage will change. Some vehicles which are currently "class 1" vehicles are likely to be used much more frequently at higher risk times and locations, while some vehicles that are currently "class 7 (taxi)" are likely to be used much less, relying almost exclusively on booked work. In this scenario, a class 7 vehicle would be unfairly cross-subsidising a class 1 vehicle.

The complication in creating a new classification for ridesharing vehicles is being able to identify vehicles currently registered for private use in the class 1 category.

As the Henry Tax Review noted, while the NSW CTP premiums better reflect risk than the community-rating principle adopted in other jurisdictions, it is not priced entirely based on individual risk and has high administration costs.

*"Existing CTP schemes provide little incentive for riskier drivers to drive less, or to drive more carefully. The introduction of distance-related pricing for driver insurance would give explicit recognition to the fact that road safety diminishes, and the likelihood of road accidents increases, with distance driven. For other insurance products, private insurance companies are seeking to remedy this misalignment of risk through the introduction of pay-as-you-drive insurance, under which drivers pay a higher insurance premium the further they drive."*¹⁵⁸

The NRMA's submission picks up on this possibility:

*"NRMA believes taxi operators should be eligible for lower CTP [and comprehensive] insurance premiums if they are able to demonstrate, through the accident and infringement history for their respective taxi plate, that they are operating a safe vehicle driven by safe drivers."*¹⁵⁹

The taskforce agrees that ideally, this should be possible.

A further complicating factor is that the same technology that facilitates rideshare services is also being used for courier and food delivery work. The same driver could use their vehicle to go to visit a friend (personal use), pick up a paying passenger along the way (providing a point to point service), then

¹⁵⁴ Suncorp submission, p.4.

¹⁵⁵ Insurance Council of Australia submission, p.2.

¹⁵⁶ NRMA submission p.11.

¹⁵⁷ IPART submission, p.12.

¹⁵⁸ http://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/publications/Papers/Final_Report_Part_2/chapter_e3-3.htm

¹⁵⁹ NRMA submission, p.16.

deliver a parcel (courier) on the way home.¹⁶⁰ This is already occurring overseas and given how quickly Uber has established itself in Sydney, it should not be ignored in developing an appropriate response. It is likely that existing categories will lose their utility much sooner than generally expected.

The current motor vehicle registration and CTP categories have historically been based on vehicle type (class 1, taxi, motorbike, bus, etc.) rather than use. While use may be a more accurate measure of risk than vehicle type alone, the taskforce recognises the challenge of correctly identifying vehicle use, particularly if it requires self-nomination by the owner. As highlighted in the example above, a person who predominantly uses their vehicle for personal use may not, at registration or insurance renewal time, even anticipate they may use their vehicle part-time to generate income at some later stage.

However, these issues are not insurmountable. As well as enabling vehicles to be used in more flexible ways, advances in technology have made it easier to record and track when, where and how vehicles are used. This sort of technology could be useful in apportioning use and setting a tailored insurance premium (and it is currently used by some insurers now for other purposes).

We are advised by SIRA that at the conclusion of the current review of profits and competition, a comprehensive review of the premium system is to commence. A key part of this review will be to consider better ways for premium cross subsidies to work in order to deliver affordable CTP for very high risks.

The taskforce supports measures in that review which may lead to more efficient pricing of risk according to use, and allow for greater rewards for vehicle owners whose vehicle use results in a much lower risk (rather than being penalised with a higher premium to pay for other vehicles in the same class, as currently occurs, in which the use of the vehicle will have limited effect in lowering prices).

Some consideration to careful deregulation of commercial premiums might also be considered, on the basis that there is little obvious merit in well-performing businesses cross-subsidising poorly performing ones. The taskforce would be cautious about any deregulation of price oversight of the insurance industry, however, given the very small number of insurers currently offering CTP to commercial vehicles like taxis.

We therefore recommend that the framework for establishing CTP cover for point to point vehicles should be reviewed in recognition of the more flexible use of vehicles which cut across the current classifications, ideally in a way that rewards safer behaviours.

Third party property damage insurance

Third party property insurance covers damage caused by a vehicle to other vehicles or property. This insurance is currently required for any vehicle used in point to point transport services (and, in the case of taxis, the Regulation makes clear that the policy should indemnify the driver). The taskforce notes that Uber also requires its drivers to hold an insurance policy covering third party property damage¹⁶¹ (although it is possible that these drivers may currently be under insured, as described by the Insurance Council of Australia's submission), which:

"... supports a minimum level of such cover because of the higher risk of motor accidents of point to point transport services. This ensures that not-at-fault motorists can successfully claim compensation for property damage, and it can prevent situations where passenger transport service providers could sustain large personal losses if directly sued for compensation for property damage caused."¹⁶²

The NSW Taxi Council supported this view and recommended "further consultation on this matter with the Insurance Council to ascertain what would constitute a suitable threshold".¹⁶³

¹⁶⁰ <http://dealbook.nytimes.com/2014/06/09/how-uber-pulls-in-billions-all-via-iphone/>

¹⁶¹ Information provided by Uber.

¹⁶² Insurance Council of Australia submission, p.2.

¹⁶³ NSW Taxi Council, p.26.

As previously noted, some insurers have already responded with products for Uber drivers in Australia. The taskforce expects that this will continue, as it has in other jurisdictions. For example, IAG's submission notes the availability of tailored ridesharing insurance overseas, such as Government Employees Insurance Company (GEICO) and Metromile, which provide cover for third party property damage, as well as personal injury coverage for the driver and the option of hybrid cover that combines a standard premium for private use and a variable premium for ridesharing use (such as per km).¹⁶⁴

The taskforce recommends that all point to point vehicles should be required to be covered by a third party property damage insurance policy which indemnifies the driver (as is presently the case). In the interim, the current level should remain, with further consultation on whether it should be revised once the new regulatory framework is established.

Workers compensation insurance and income protection insurance

Workers compensation insurance requirements apply differently across the point to point transport sector depending on a number of factors, including how the driver is engaged to provide services.

For the purposes of workers compensation insurance, taxi drivers are "deemed workers" and taxi operators must take out a workers compensation insurance policy. How workers compensation insurance is applied to other point to point drivers depends on the employment relationship.

WorkCover recommends (though does not require) that sole traders take out income protection insurance or a personal accident or illness policy.¹⁶⁵ As noted in IAG's submission, if drivers are relying heavily on income generated through Uber, then they may not be aware that such cover may be appropriate.¹⁶⁶

The taskforce has not had the time to consider this issue, and notes that if our proposed regulatory framework is adopted the requirements around workers compensation may need to change. In the meantime, the existing requirements will continue to apply and point to point transport industry participants need to ensure that they are adequately covered and meet the requirements of the legislation. In transition, there will need to be an education campaign so that the different participants understand their obligations.

¹⁶⁴ IAG submission, p.9. The CTP scheme in NSW covers the vehicle owner for injuries to third parties. Because there is no compulsory third party injury scheme in the US these hybrid policies are available. In Australia it would be more like a public liability policy that would have effect in the event that CTP does not cover the driver.

¹⁶⁵ "Workers Compensation Insurance: A guide for NSW employers", WorkCover, p.4.

¹⁶⁶ IAG submission, p.6.

5. Fares

The current regulatory requirements for taxi fares are the same regardless of whether the taxi is booked, obtained at a rank or hailed off the street. Our proposed regulatory framework distinguishes between booked and rank & hail services so we have sought to distinguish the regulatory arrangement for the fares for both. We recognise that when obtaining a taxi at a rank or hailing it off the street, a customer does not usually have sufficient time to negotiate the fare before their journey commences or to seek out an alternative service. We therefore consider that some form of regulation of the level of fares for rank & hail services is warranted.

In this chapter we set out how we think the Government should regulate fares and the devices used to calculate them (i.e. meters). We also look at the issue of fare receipts.

Recommendations

The taskforce recommends that:

29. Fares for booked taxi services be substantially deregulated to bring them into line with other booked services.
30. All booking services be required to offer a potential customer an estimate of the total fare for the customer's journey before a booking is confirmed. The potential customer should also be informed about whether and how the final fare payable may vary from the estimate provided.
31. The Government continue to determine the **maximum** fare components (flagfall, distance rate and waiting time rate) and other charges for rank & hail taxi journeys.
32. Taxi organisations be allowed to set and be required to display fares and charges that are at or below the regulated maximum. They should also be allowed flexibility about when they apply peak versus off-peak fares. Further, some charges should be removed or substantially deregulated:
 - Rank & hail services should no longer be allowed to charge a return toll for one-way journeys using the Sydney Harbour Bridge and Sydney Harbour Tunnel.
 - While a cleaning fee should be chargeable if a customer soils a taxi, this amount should be set and displayed by the taxi organisation.
33. Fares and charges for rank & hail services be calculated on a device using the rates displayed by the taxi organisation. The Government should remove prescriptive requirements for the equipment used to calculate the applicable fares and charges. Any regulation of this equipment should be flexible and outcome-focused.

Fares for booked services

In the current regulatory system, the only restriction on fares for booked-only services is that the fare for a hire car service cannot exceed the amount notified to the hirer before the hiring. In contrast, fares for booked taxis are subject to the same maximum fare schedule that applies to rank & hail services.

The NSW Taxi Council recommended that "flexibility for pricing of booked services for taxi be considered". It explained that:

*"Pricing that reflects higher levels of service in terms of vehicles and priority bookings are considered worthy of further examination provided that there are clear protections for the transport disadvantaged. These measures could assist the taxi industry to more effectively compete with other point to point services and it would also potentially aid taxi driver and operator remuneration."*¹⁶⁷

¹⁶⁷ NSW Taxi Council submission, p.28.

Such a change in the existing requirements for booked taxi services would be significant and present new opportunities for taxi service providers. Allowing taxis to charge an agreed fee for booked services that may exceed the regulated rank & hail fare gives taxi service providers the opportunity to offer higher quality and a different array of services at a higher price if they choose to do so. It also puts them on a level playing field with non-taxi booked services. The ability for taxis to charge an agreed fee for booked services that is lower than the regulated rank & hail fare would remain unchanged.

This approach is similar (though not identical) to that which is in place in the US District of Columbia (DC) where a taxi must charge the regulated fare if the journey is arranged by street hail or traditional telephone dispatch. However, if the journey is arranged through a digital dispatch service the company may set the fare but must disclose to the customer the fare calculation method, the applicable rates being charged, and the option for an estimated fare.¹⁶⁸ Unlike DC, we are recommending a light-handed form of regulation for all booked services, regardless of how the service is booked because we believe that booking services have an incentive to provide good value for money in order to encourage repeat business.

With regard to booked-only services, IPART said that:

“... there is already sufficient competition and information in the booked services market that these charges do not need to be regulated. However, service providers should be required to give customers information about the basis of calculating fares including any peak or ‘surge’ pricing [see below], and an estimate of the fare, in advance of the hiring.”¹⁶⁹

We agree that customers rely on clear information about fares to make an informed decision about which service best suits their preferences. We recommend that all booking services be required to offer customers a fare estimate before a booking is confirmed.

We acknowledge that there could be circumstances in which the final fare payable reasonably varies from the estimated fare, and we consider it important that the booking service inform the potential customer of the circumstances when this would occur and how any variation would be calculated. We understand that this is currently common practice for hire car operators. For example, a customer might make a booking for a set duration but agree in advance to pay a pro rata hourly rate if the journey exceeds the anticipated duration.

The notification arrangements we have recommended are similar to those that apply in United States jurisdictions where Transportation Network Companies (which only offer booked services) such as Uber and Lyft are legal.¹⁷⁰

The NSW Hire Car Association observed that devices that “calculate fares using a combination of time and distance parameters” are presently illegal for any service other than a taxi and “anticipate the new regulation will clearly articulate what is acceptable in relation to calculation of fares for various classes of service and then strict enforcement of compliance to the new regulations, whatever they may be”.¹⁷¹ For clarity, the new fare arrangements we have proposed would allow all booked services to calculate fares on a time and distance basis, so long as the notification requirements are met.

Dynamic pricing for booked services

Dynamic pricing refers to the practice of charging different fares at different times, usually in response to changes in demand.

Uber and Lyft are examples of booked services that use dynamic pricing. The apps of both companies notify potential passengers if higher surge pricing (Uber) or Prime Time (Lyft) rates are in place when they are making a booking.¹⁷²

¹⁶⁸ Council of the District of Columbia Committee on Transportation and the Environment, Committee Report, 1 October 2014.

¹⁶⁹ IPART submission, pp.12–13.

¹⁷⁰ Transportation Network Companies Regulations Review & Report March 5, 2015 <<http://www.portlandoregon.gov/transportation/article/521936>>.

¹⁷¹ NSW Hire Car Association submission, p.12.

¹⁷² Lyft does not yet operate in NSW.

The passenger must accept the higher rates before a booking is confirmed. Uber states that during periods of high demand its dynamic pricing strategies “reduce demand to manageable levels, encourage additional driver-partners on the road to improve supply and incentivise drivers to redistribute themselves from areas of low demand to areas of high demand”.¹⁷³

We are aware that some stakeholders think that “Uber should not be able to vary fares to whatever level whenever they want”¹⁷⁴ and observe that “Uber keep saying they are cheap but when surge on [*sic*] they are far more expensive than taxi”.¹⁷⁵

In contrast, others are not concerned about surge pricing. We heard from one customer who said: “I understand how surge pricing works and I agree with it; supply and demand should dictate prices provided it is done with absolute transparency and across the market (not one on one negotiation).”¹⁷⁶ And another who told us: “I believe that the market will set a working fee structure. The fact that Uber uses flexibility in pricing and is open about this, and shows up front before the booking is made is perfectly fair in the current climate (extraordinary events aside).”¹⁷⁷

We consider that by allowing booking services to set fares for booked services and imposing some obligations relating to the notification of fares to customers, regardless of the vehicle in which they are provided, customers will have greater choice and not be locked into using booked services that adopt dynamic pricing if they do not want to.

Some jurisdictions have imposed restrictions on dynamic pricing. In the United States District of Columbia, for example, digital dispatch services must limit the surge in fares during a state of emergency, as declared by the Mayor.¹⁷⁸ The ACT Government has also announced that surge pricing may not occur during a formally declared emergency.¹⁷⁹

The taskforce does not consider such restrictions are necessary in NSW if, as we have recommended, all booking services are required to offer a potential customer an estimate of the total fare for the customer’s journey before a booking is confirmed. This would prevent customers being forced to pay fares that they consider too high. We also consider that the reputational risk for companies that engage in surge pricing during emergencies is a significant deterrent.

For example, during the December 2014 siege in Sydney’s CBD, Uber used surge pricing to encourage more drivers to come online but then refunded the fares paid by the passengers that used its service during the crisis.¹⁸⁰

Regulation of fares for rank & hail services

The submission from the NSW Taxi Council argued that regulating the level of taxi fares ensures that “the consumer has transparency on fares and that the public is protected from price gouging during periods of peak demand”.¹⁸¹ NRMA sees fares regulation as “a key point of differentiation between taxis and other point-to-point transport services” which for many consumers “is viewed as an advantage when compared with the demand-responsive or ‘surge pricing’ model of UberX”.¹⁸²

Customers of rank & hail services are usually not able to obtain the information they need to choose a particular taxi organisation based on the price or value of the service, so we agree that fare regulation is an important consumer protection mechanism.

173 Uber submission, p.15.

174 Anonymous submission.

175 Anonymous submission.

176 Anonymous submission.

177 Anonymous submission.

178 A company that provides digital dispatch that engages in surge pricing shall limit the multiplier by which its base fare is multiplied to the next highest multiple below the 3 highest multiples set on different days in the 60 days preceding the declaration of a state of emergency for the same type of service in the Washington Metropolitan Area. (Council of the District of Columbia Committee on Transportation and the Environment, Committee Report, 1 October 2014.)

179 http://www.cmd.act.gov.au/_data/assets/pdf_file/0006/778569/150929_ACT-TaxiIndustryReforms_Passengers.pdf

180 Uber, “Uber Free Rides During the Sydney Siege”, 14, December 2014, <http://newsroom.uber.com/sydney/2014/12/uber-free-rides-during-the-sydney-siege/>, accessed 26 October 2015.

181 Taxi Council submission, p.7.

182 NRMA submission, p.16.

For example, when a customer is hailing a taxi they do not have much time to review the rates and charges offered. At a taxi rank, many customers feel obliged to take the first taxi in the queue even though they are not legally obliged to. Tourists and other visitors are particularly vulnerable because they are less likely to know what fare levels are reasonable or which taxi organisations offers different service standards and good value for money.

To protect vulnerable customers, the taskforce recommends that the NSW Government should continue to determine the maximum fares and other charges for rank & hail taxi journeys. We believe that the maximum fare components should be set so as to prevent price gouging. This would be at a level that might be expected for peak times (though without necessarily nominating what those peak times should be, as discussed below), to give taxi organisations much greater flexibility about how they price services at different times.

Fare structure and additional charges

The current regulated fare structure in NSW includes a fixed hiring rate (flagfall), distance rate, waiting time rate (that applies when the taxi is stationary or travelling below a certain speed) and a booking fee. The rates for each component vary according to where the taxi is hired (urban area or country area), when it is hired and how many passengers are transported (if a taxi is hired by multiple people).

In relation to the flexibility of rank & hail pricing we heard in one submission that: “Improving customer satisfaction with fares comes down to having a simplified and consistent fare structure ... = The shortage in taxi supply no longer exists. For this reason, fares should be consistent throughout the day and week.”¹⁸³

We agree that a simple and consistent fare structure – in terms of fare components – is important for customer satisfaction, but we think that taxi organisations should be able to vary the level of fares by time of day or week, if they choose to do so. This is particularly important if rank & hail services are to remain competitive with booked-only services, which have the flexibility to charge higher fares in high demand periods and discount in low demand periods. If taxi organisations were forced to charge the same fares at all times, they would not be competitive in off-peak periods. In our regional consultation we heard from taxi operators who wanted lower fares so more people would take taxis.

However, this does not mean that the Government should determine peak/off-peak periods. It may instead determine a maximum that applies at all times, leaving individual, competing taxi organisations to set rates below the regulated maximum and when these would apply.

IPART considers that “the existing structure of flag fall, distance rate and waiting time is appropriate and reasonably well understood” and that “customer confusion is more likely to arise over charges added legitimately but manually at the end of a journey: tolls, booking fee, airport access fee or return Harbour toll, for example”.¹⁸⁴

Taxis may charge the following “extras” on top of applicable flag fall, distance rate and waiting time charges:

“all road, bridge, ferry, tunnel and airport tolls that apply to the journey, and the return toll for a northbound journey over the Sydney Harbour Bridge or through the Sydney Harbour Tunnel;

“a surcharge for non-cash payment surcharge (capped at 5% of the amount otherwise payable, inclusive of GST);

“a cleaning fee if a customer soils the taxi (the driver is entitled to collect, and the hirer must pay, a cleaning fee equivalent to one hour of the regulated waiting time fee).”¹⁸⁵

The taskforce acknowledges that the manual addition of these charges is sometimes frustrating for customers. It would be good practice for taxi drivers to ask customers whether they would prefer to take an alternative route with no toll, if one is available. However, we do not see any need to regulate for this.

¹⁸³ Atra family submission, pp.6-7.

¹⁸⁴ IPART submission, p.13.

¹⁸⁵ <http://www.transport.nsw.gov.au/customers/taxis/maximum-taxi-fares-and-charges>.

We note that there are signs at Sydney Airport about the airport access fee as well as signs about tolls on motorways, and that there have been innovations in payment systems which give customers much better information about the journey and the charges.

Notwithstanding these comments we also agree with IPART that “these concerns would potentially be met by clearer information on receipts, as is required by the Australian Consumer Law and the Australian Taxation Office”¹⁸⁶ (see discussion on receipts further below).

With regard to tolls, we do not consider that there is a strong justification for charging a return toll for one-way journeys using the Sydney Harbour Bridge and Sydney Harbour Tunnel since taxis are likely to be able to pick up a return fare. We therefore recommend that rank & hail services should no longer be allowed to charge a return toll for one-way journeys using the Sydney Harbour Bridge and Sydney Harbour Tunnel. We also consider that while a cleaning fee should be able to be charged if a customer soils a taxi, this amount should be set and displayed by the taxi organisation.

Display of rank & hail fares and charges

Taxis are currently permitted to charge a fare below the regulated maximum. However, the taskforce understands that this is rarely done, particularly for rank & hail services. We expect this is because customers are not aware that they are able to negotiate a fare lower than the regulated maximum. It is possible that many drivers are also not aware that they are allowed to discount fares.

Existing regulations require that taxi operators display the regulated maximum fares and charges, as determined by Transport for NSW, in a form approved by Transport for NSW and in a position where the information can be easily read by any passenger. A taxi meter must also display the authorised fare for any hiring of the taxi. The regulator may issue a fine to a driver for charging more than the regulated maximum fare

To encourage price competition, the taskforce considers that taxi organisations should be required to display the fares and charges that apply when their taxi is taken from a rank or is hailed. Each fare component should be no higher than the regulated maximum for each component determined by Government but the taxi organisation should be able to compete and set fare components lower than the regulated maximum.

However, we consider that the law should continue to mandate the use of a device which calculates the fares using the rates displayed by the taxi organisation (see below for more discussion on fare calculation devices). If a customer is charged more than the displayed price, then this should be dealt with by the taxi organisation under Australian Consumer Law, as is the case with other consumer transactions.

A regulated maximum fare for rank & hail services would mean that customers have the security of knowing that they would not be charged excessively for these services. Encouraging competition between taxi organisations means that customers would begin to recognise and favour taxi organisations that offer more tailored (cheaper or premium) services, depending on what the customer values. In the first instance the customer would be able to take up any complaints about the fare charged up with the taxi organisation. Failing that, the customer could make a complaint to government.

If the display of fares does, as intended, encourage taxi organisations to take ownership of fares, over time the Government may consider moving to a price notification system rather regulating maximum fares and charges. Some examples of fare notification systems for rank & hail services in other jurisdictions are provided in the box below.

¹⁸⁶ IPART submission, p.13.

Figure 9. Notification requirements for taxi fares in other jurisdictions

Notification requirements in other jurisdictions

Jurisdictions that have adopted price notification systems include New Zealand (since 1989), Sweden (1990) and Victoria. In Victoria the price notification system applies only to taxis in the Regional Zone or the Country Zone, where booked services predominate (regulated maximum fare schedules apply in the Metropolitan Zone and the Urban Zone).

Victoria

Regional or Country taxi operators in Victoria must not operate a taxi unless the fares or hiring rates have been notified to and published by the Taxi Services Commission on its internet site. The information provided to the Taxi Services Commission must include operator name and accreditation number and contact details, each maximum fare or hiring rate, the date of commencement of the fares and hiring rates and details of any charges in addition to the fares and hiring rates that will apply for an actual journey.

The maximum fares or hiring rates, inclusive of GST, must also be clearly displayed on notices outside and inside the vehicle.¹⁸⁷

New Zealand

In New Zealand taxis, a fare schedule including multiple hire discounts and other charges, must be clearly displayed on the outside of the front passenger door of the vehicle and must be readily visible to all passengers inside the vehicle. The sign inside a vehicle must also include information about how customers can make complaints. Regulations prescribe the minimum dimension of the signs and the sizes and style of lettering that must be used.¹⁸⁸

Fares, charges, and multiple hire discounts must be registered with the New Zealand Transport agency before being displayed in or on a taxi.

Example of fare display sticker, New Zealand

MAXIMUM FARES: Notified to the [New Zealand Transport Agency] [Month/year]		
FLAGFALL	\$X.XX	[Record here details of any multiple hire discounts and any other charges]
TARIFF 1	\$X.XX per km	
TARIFF 2	\$X.XX per km	
Waiting time	XXc per minute	
Tariff 1 applies between [time] and [time] Tariff 2 applies between [time] and [time]		
Member of [ATO name] [Record here if GST is not charged]		

Source: Land Transport Rule: Operator Licensing 2007 Rule 81001 <http://nzta.thomsonreuters.co.nz/DLEG-NZL-LTSA-TLTR-81001.pdf>

Sweden

In Sweden, taxi companies are required to provide fare comparisons for each tariff. This is comparison fare must be based on a “typical journey”, which is one that covers a distance of 10 kilometres and takes 15 minutes. The fare comparison must be displayed in large black letters on a yellow background.¹⁸⁹

In response to the practice of some taxis charging excessive fares, particularly to tourists, a new regulation was introduced. If the typical journey fare comparison is higher than 500 SEK, the new regulation gives the passenger the right to be informed, in writing, of the highest price for the journey.¹⁹⁰

Example of fare display sticker, Sweden

Taxiföretagets namn, adress, telefonnummer		
PRISINFORMATION		
När	Jämförpris 10 km som tar 15 min	Det högsta jämförpriset som tillämpas av detta taxifordon
Vardagar klockan...	... kr	... kr
Vardagar klockan...	... kr	
Vardagar klockan...	... kr	
Begär alltid taxameterkvitto!		
Grunderna för hur priset bestäms framgår av prisinformationen på insidan av taxifordonet!		
Storbiotaxa tillämpas vid körning med fler än fyra passagerare. Terminalavgifter tillämpas. Fasta priser tillämpas. Skriftlig information finns hos föraren.		

Image source: <http://www.swedavia.com/arlanta/to-from/taxi/>

¹⁸⁷ Transport (Taxi-cabs) Regulations 2005, cl 23A

¹⁸⁸ Land Transport Rule: Operator Licensing 2007 Rule 81001 <http://nzta.thomsonreuters.co.nz/DLEG-NZL-LTSA-TLTR-81001.pdf>

¹⁸⁹ http://www.transportstyrelsen.se/globalassets/global/publikationer/vag/trafikant/taking-a-taxi_webb_2015-08-01.pdf

¹⁹⁰ Email from Swedish Transport Agency 15 September and http://www.transportstyrelsen.se/globalassets/global/publikationer/vag/trafikant/taking-a-taxi_webb_2015-08-01.pdf

Taxi meters

To measure the maximum fare for a journey, taxis are fitted with meters which must be running throughout the hiring. To ensure that the meter is working properly, the operation and settings of the meter are checked at regular intervals. Taxi meters cost operators several hundred dollars, and some involve ongoing subscription fees. A taxi network must ensure, to the best of its endeavours, that the meters installed meet the required standard and that drivers connected to its network comply with the maximum fare schedule.

The specifications for taxi meters are tightly prescribed and have not been amended in several years. The current specifications do not fully accommodate developments in digital and GPS technology and are not flexible enough to adequately accommodate newer technologies such as taxi smartphone apps with meter-like functions.

There is some disagreement about whether smartphone apps should be allowed to be used to calculate taxi fares. In their submission goCatch stated that “the regulations should allow smartphone apps to be used to calculate taxi fares given the accuracy of GPS data now available on these devices”.¹⁹¹

In contrast, the Taxi Council consider that:

“... mobile phone technology is neither sufficiently accurate nor robust to provide the consumer with the same level of confidence. Furthermore, should telecommunications coverage be limited or non-existent, the reliability of a mobile phone GPS as a price measuring device is significantly diminished.”¹⁹²

IPART considers “that it would be more appropriate for NSW metering and fare regulations to be outcome-focused i.e. require installation of a meter (or ‘fare device’ as the Victorian legislation defines it) that calculates fares and produces receipts that comply with relevant legislation, rather than specifying the meter hardware”.¹⁹³

Similarly, the Australian Taxi Drivers Association considers: “All that is needed is for the Regulation to do no more than require a meter capable of displaying and recording all elements of the fare, and to be secure.”¹⁹⁴

It is also apparent that the current meters are not meeting the needs of all passengers. Vision Australia reported that:

“An ongoing frustration for us and our clients is that NSW has not implemented talking taxi meters, which verbalise the visual information displayed on a taxi meter so that a person who is blind or has low vision can access it ... A related point is that almost all taxis now have GPS systems installed, and most of these systems have speech output capabilities, which can provide a passenger who is blind or has low vision with information about the route being followed. This information is useful in assessing whether the fare is reasonable.”¹⁹⁵

Vision Australia further observed that: “Uber uses modern technology and has made its app accessible to people who use the Voiceover screen reader. So a person who is blind or has low vision is able to tell what the total fare for an Uber journey is.”¹⁹⁶

The taskforce’s view is that the regulations should not specify particular technologies for taxi meters. We note that Uber customers appear to accept a smart phone as a reliable fare calculation device and the New York City Taxi and Limousine Commission (TLC) is trialling new devices that calculate fares using GPS technology.¹⁹⁷

¹⁹¹ goCatch submission, p.5.

¹⁹² Taxi Council submission, p.30.

¹⁹³ IPART submission, p.13.

¹⁹⁴ Australian Taxi Drivers Association submission, p.19.

¹⁹⁵ Vision Australia submission, p.12.

¹⁹⁶ Vision Australia submission, p.11.

¹⁹⁷ Andrew Tangel, “Tech Inside Yellow Cabs Faces an Overhaul”, *The Wall Street Journal*, 15 October 2015, <http://www.wsj.com/articles/tech-inside-yellow-cabs-faces-an-overhaul-1444932788>.

We recommend that the Government remove prescriptive requirements relating to the equipment used to calculate fares. Any regulation of this equipment should be flexible and outcome-focused. These outcomes should include that the meter is secure and accurately calculates the total amount payable using the displayed rates and charges. We think it is likely that if other jurisdictions also move to meter requirements that are less prescriptive and more outcome-focused, innovation in metering technology will continue.

The device calculating the taxi fares should be running for all rank & hail journeys, but it is not necessary during a booked journey. Further, as the taxi organisation sets its fares, that organisation should be accountable for the accuracy of any device used to calculate fares.

We heard during consultation in regional areas that the ability to have customers prepay their fares would help ease driver anxiety about the possibility of customers absconding without paying.¹⁹⁸ We consider that booking services will have flexibility about how fares are charged for booked services, and they can put in place whatever measures they consider necessary at the time of booking or thereafter to mitigate the risk of the fare not being paid, provided that they have notified the customer of whatever measure that may be used.

In terms of pre-payment of rank & hail fares, we consider that each taxi organisation can establish their own rules as to how this might work and communicate those clearly with customers and drivers.

Receipts

Australian Consumer Law provides that a receipt must be offered to a consumer who purchases goods and services with a value of more than \$75 (excluding GST). A receipt must be provided to a consumer for a purchase of less than \$75 (excluding GST) where the consumer requests one.¹⁹⁹

The Australian Taxation Office has the following requirements for GST tax invoices for taxi trips:

- driver's identity, or their Taxi Driver Authority Number
- driver's ABN
- date of the taxi journey
- pick-up point and destination
- price of the taxi fare
- that the document is intended as a tax invoice (for example, with the words "tax invoice" stated prominently)
- GST amount in relation to the fare (either by including a statement that the total amount payable includes GST or by including the total amount of GST payable).²⁰⁰

¹⁹⁸ Meeting with taxi industry participants in Nowra, 28 July 2015.

¹⁹⁹ Australian Consumer Law (Competition and Consumer Act 2010), Schedule 2, s.100.

²⁰⁰ <https://www.ato.gov.au/Business/GST/In-detail/GST-issues-registers/Taxi-industry---issues-register/?p.5>

The NSW Taxi Council is concerned that many receipts provided in taxis do not appropriately meet these standards and has asked the NSW Government to separately regulate receipts, including the information thereon, that the receipt must be printed and that the receipt printer must be connected to the meter. We do not consider that additional regulation of this kind would enhance consumer protection.

The taskforce's discussion paper noted that a number of taxi booking and payment apps²⁰¹ offer registered customers electronic receipts, sent via email, which commonly include the taxi driver name and photo, pick-up location and destination, the total journey time and distance and an itemised list of any additional fees and charges.

A Sydney taxi network also demonstrated a new payment device which incorporates accessible features, as well as a more detailed receipt and the option to email the receipt to customers.²⁰² We are therefore confident that the customer experience will continue to improve without a specific need to regulate for receipt standards in passenger transport law.

Vision Australia predicts that "as more taxi operators develop apps it should be straightforward to incorporate functionality for processing and emailing receipts" and asked that we "include a recommendation that accessibility of this functionality be a regulatory requirement". As outlined in chapter 8, any requirements for accessibility should be dealt with as part of ongoing reviews of the Commonwealth Government Disability Standards for Accessible Public Transport (DSAPT).

²⁰¹ Ingogo, goCatch, Uber.

²⁰² Meeting with Premier Cabs, 23 October 2015.

6. Service quality and innovation

The terms of reference require us to consider whether there should be any change to the regulatory framework for point to point transport services with the aim of maximising customer outcomes. An important part of this consideration is whether the existing framework promotes the delivery of quality services that meet customer expectations.

It is clear to the taskforce that the existing regulation of point to point transport is not working to ensure that customers reliably receive a quality service, particularly in the case of taxi services. Furthermore, the level of prescription means that taxi industry participants have high costs of compliance and are at a competitive disadvantage.

Rather than have the Government mandate and enforce some aspects of service quality with varying degrees of success, the taskforce recommends removing prescriptive requirements and letting industry participants determine the quality of service they offer to customers.

The section below outlines our reasons for adopting this approach.

Recommendations

The taskforce recommends that:

34. Responsibility for service quality including of drivers, vehicles and any ancillary customer services, rest with taxi organisations and booking services.
35. Regulations on the quality of point to point transport services be removed, including those covering:
 - the presentation, conduct and training of drivers.
 - testing relating to the geographic knowledge and understanding of the regulation by the driver.
 - specifications for vehicles used to deliver point to point transport services.
 - vehicle inspections for quality and comfort standards.
 - maximum age limits for vehicles used to deliver taxi services.
 - restrictions on advertising in or on a taxi, as long as a potential customer is able to easily identify that the vehicle is a taxi and the name and contact details of the taxi organisation.
 - reporting of key performance indicators.
 - management of customer feedback and lost property.
36. In the interim, to assist industry and customers during the transition to the new arrangements, the regulator should maintain a centralised feedback system for taxis, and give taxi organisations and booking services access to the system so that they are able to respond to any customer feedback and make informed decisions about drivers who provide service under their brand.

The NSW Government currently mandates, through prescriptive regulation, minimum quality standards which apply equally to taxis, hire cars and tourist services. Many of these requirements may have been appropriate in the past when there were far fewer alternative services available to customers. However, our recommendations in other parts of the report will increase the service choices available to customers meaning this level of prescription is no longer warranted; it is actually adding unnecessary cost and holding back service innovation, as we explain below.

Customer choice and reputational incentives

Regular surveys conducted by Transport for NSW indicate aspects of urban taxi services that are of concern to customers. One in 10 customers is dissatisfied with on-time arrival, almost the same proportion is dissatisfied with the smell of the cab, one in 8 customers is unhappy about the information they receive about fares, and nearly one in five people think that the fare is unreasonable.²⁰³ Overall satisfaction with urban taxi services is 81 per cent.

The taskforce received hundreds of submissions expressing frustration with the quality of taxi services. We have reproduced below what we consider to be a representative sample.

*"The quality of the average taxi in Sydney is terrible with substandard cars and drivers."*²⁰⁴

*"I travelled most nights for work with cabs and I got fed up with the poor customer service, smelly cabs and rough driving. This was particularly a problem when I was pregnant, I often wanted to get out of the cab."*²⁰⁵

"... taxis simply do not turn up at my house, and there are many thousands like me. Tell the taxis to lift their game rather than moan."

"Taxis are rude, [redacted] who do nothing but complain about uber drivers whilst charging me double the price for a stinky ride."

"I am sick of taxis pulling up asking me where I want to go and then refusing to take me as they speed off with me leaning into the window."

"... sometimes taxis don't come, because there is no way of calling the taxi driver directly. You don't know who your taxi driver is, you don't know whether he will charge an extra \$10 for some hidden charges that you didn't know about."

"Too many times I have flagged down a standard Sydney taxi to find it decrepit and unclean and then been subjected to a driver with bad BO, talking on the phone and leering at me. This happens around 50% of the time ..."

The rapid adoption of UberX services in Sydney may be, in part, a response to the frustration felt by customers with the quality of taxi services. Customer research made available to the taskforce suggests that UberX customers consider that features of the app, the drivers and vehicles are superior to taxis on many aspects of service quality.²⁰⁶

The NSW Taxi Council acknowledges "that there are key lessons to be learnt from the digital disruption currently occurring in the industry and also that there are areas that it could improve upon to increase customer satisfaction."²⁰⁷

Prior to UberX, the most practical alternative for taxi customers in Sydney were hire cars, which have generally been considered a luxury service, and not affordable or even desirable for many people. As an alternative to taxis and hire cars, UberX appears to be working well for those who use it. The taskforce received several thousand submissions in support of UberX, and the impact of having this choice is evident:

*"[Uber] is so good, in fact, that even if the price was the same as a taxi I would still choose Uber. I think I might go so far as to say that even if Uber was slightly more expensive I would still choose Uber."*²⁰⁸

*"The NSW taxi industry [has] been putting my interests last for a long time. I was a frequent catcher of cabs, and had no option but to put up with their poor offering ... Now we've voting with our wallets."*²⁰⁹

²⁰³ <http://www.transport.nsw.gov.au/sites/default/files/b2b/publications/customer-satisfaction-index-2014.pdf>

²⁰⁴ Anonymous submission.

²⁰⁵ Anonymous submission.

²⁰⁶ SMPR for Transport for NSW, pp.14,17.

²⁰⁷ NSW Taxi Council Submission, p.13.

²⁰⁸ Anonymous submission.

²⁰⁹ Anonymous submission.

Services for rank & hail customers usually involve a fit and able person hailing a taxi, being taken to their nominated destination, and paying the metered fare upon arrival. The service is anonymous and frequently impersonal, with driver and passenger never likely to meet again. For a significant number of taxi customers, that level of service is adequate. This business model has tended to dominate the taxi industry approach to service generally, and has possibly contributed to there being much less specialisation and differentiation by taxi businesses than is desirable, particularly for customers who book.

There is more diversification in the broader point to point industry, particularly where service providers are either disrupting existing systems, aided by rapid technological advances, or are not weighed down by prescriptive requirements.

Hire cars have always offered a boutique service for those who were willing to pay more, and more specialised products have emerged for the wedding and luxury markets. Uber now offers a range of services from the low-cost UberX, through UberBlack (linking consumers to black hire cars) to UberLUX (using luxury vehicles such as BMW, Audi and Mercedes).

In Victoria and New Zealand taxi operators have begun to use environmentally friendly vehicles, branding them with distinctive livery so that passengers can better exercise choice.

Several firms are developing options for multiple passengers, including Lyft, whose Lyftline offers discounts for those who allow others to join them on the journey. Lyft's "Triple Match" and Uber's "Perpetual Ride" allow drivers to pick up and drop off along the journey. Fixed area, fixed fare options have emerged in New York. Lyft ("Hotspots") and Uber ("Smart Routes") both introduced services where passengers could secure even cheaper fares by walking to a designated pick-up point (although Lyft has since abandoned this offering).

NRMA has indicated its interest in potentially participating in the industry. "NRMA may in the future investigate options for the direct provision of point to point transport services for our Members, should future laws or regulations permit."²¹⁰

The taskforce believes that when customers have more choice and are able to select services based on reputation or past experience, point to point transport providers will innovate and differentiate their offerings, among other things by focusing on particular customer groups or geographic areas. This will build better brand awareness and provide a more sustainable future for the point to point industry than prescriptive regulation ever could.

Prescriptive regulation and consequences for service quality

There is not the same development, promotion and easy identification of individual brands or diversity of service offerings in the NSW point to point transport market, in particular taxi services (Silver Service taxis and other comparable services now available are a limited exception to this).

This is due in part to the prescriptive standards for vehicles and drivers. The high cost of compliance provides little motivation for taxi networks to differentiate themselves for example by offering a high quality service, specialised vehicles, or cheaper fares.

Also problematic is the level of specificity about how service providers may operate. For example, the business model for taxis that is specified in detail in the 1990 Act (and to a similar extent in the 2014 Act) has entrenched a fragmented industry structure that appears, based on submissions we received, to demonstrate little accountability to its customers.

The taskforce considers that the imposition of detailed standards and of prescribed business models limits innovation, constrains diversity and increases the cost of services.

²¹⁰ NRMA submission, p.3.

These sentiments were supported by customer research which suggested that taxi customers think that the regulatory framework is either not effective or only partially effective in terms of complaints handling, lost property, presentation, politeness and knowledge of drivers, and the fittings of the vehicle being in good condition.²¹¹

We believe it is critical that prescriptive requirements be removed so that the future regulatory framework allows for innovation and incentivises all industry participants to provide a quality service to customers.

A number of submissions agreed that allowing the industry to manage service quality would be more effective. One submission stated: "It is our view quality of service cannot be cost effectively regulated but it is best left to the market to reward or punish according to whether the delivery of the P2P transport service fulfils the customers' expectations."²¹²

The NSW Hire Car Association put it this way:

"The NSW HCA is of the view that service quality should be self-regulated which will ensure the pursuit of service excellence and the success of suppliers who are able to consistently deliver service excellence and therefore differentiate themselves from other competitors."²¹³

The object of our proposed model is for brand and reputational incentives to play a greater role in shaping the service offering and quality and the commercial performance of businesses in the point to point sector. We recommend that those entities with the reputational incentives – taxi organisations and booking services – be responsible for determining the standard of the services they deliver. Each industry participant can then establish the standard to which their services will be held, and choose the most effective method for ensuring that those standards are met.

The taskforce sees two principal benefits from this approach. Firstly, industry will be able to decide the most cost-effective means of delivering a quality service to customers and respond more quickly to changes in technological innovations and customer preferences.

Secondly, over time the brand of a taxi organisation or a booking service will become associated with a particular quality of service, or the special services that it offers. The taskforce believes that this will motivate industry participants to deliver a quality service as a means of attracting both new customers and repeat business.

The taskforce recognises that the recommended approach represents a significant change from current arrangements, and suggests that the NSW Government should play a role in assisting the industry and customers to transition. Transport for NSW should develop a customer education campaign which describes the new framework and highlights the opportunities available to customers.

Based on our discussions with the drivers, operators and network managers we met in the course of our consultation, we are confident that the point to point transport industry has the capacity to evolve and diversify in response to customer demand.

Removing regulation of service quality

Below are specific regulations that we submit should be removed because they are ineffective, they deliver poor outcomes for customers, or they add unnecessary costs to service. In some cases they will no longer be necessary because of other changes we have recommended elsewhere in our report.

Drivers

The Regulation mandates requirements on driver presentation, conduct and training. For taxi drivers, there are more than 20 clauses devoted to service quality, which in other industries would be routinely dealt with by competitive businesses as a matter of good customer service.

211 SMPR for Transport for NSW, pp.25–26.

212 Cabbieexpress submission, p.8.

213 NSW Hire Car Association submission, p.13.

The sheer number of requirements relating to taxi drivers suggests the industry has been overly reliant on regulation to manage service quality. Rather than set and maintain customer service standards because it is good for business, it would appear that ownership of customer service outcomes has been lacking among some industry participants.

Customers' experiences with taxi drivers as shown in complaints data, customer satisfaction surveys, customer research and in submissions to the taskforce, demonstrates that the current system is ineffective. Rudeness on the part of drivers is one of the most frequent sources of complaint, only less so than complaints about the fare and unsafe driving.

The taskforce received many submissions expressing frustration with their experiences with taxi drivers, as shown below and elsewhere in our report:

*"Many of the drivers are unfriendly, smelly and often very rude."*²¹⁴

*"No more using dodgy general taxi drivers who don't know where they are going, sound like they hate their job and let you know it, no more cases of attacks on women who ride alone, added fees just because they feel like it and forgot to tell you and in general rude unsafe feeling driving."*²¹⁵

*"When I take a taxi home from the airport, if the taxi doesn't have a foul odour, the driver if not on his bluetooth barely even grunt an acknowledgment of you."*²¹⁶

The regulation specifies what shoes a taxi driver must wear, that their clothing be neat and tidy and that they must wear a network uniform.

It should not be necessary to regulate for such matters. In other industries, such standards are set by businesses, not government, and it should be no different for the point to point transport industry. We recommend that all regulation on dress and presentation of point to point transport drivers be removed. Responsibility for these matters should be dealt with by taxi organisations and booking services, whose brand reputation is more directly linked with the presentation of drivers.

The Government also mandates certain requirements relating to the conduct of drivers. The list below is not exhaustive, but demonstrates the level of detail in the regulation. A taxi driver must:

- not eat or drink in the vehicle
- handle lost property in particular ways
- if picking up a parcel, personally notify the customer of their arrival, but not by the sounding of a horn
- wait for 15 minutes if asked to do so, unless a different period is agreed
- drive by the shortest route possible, unless otherwise directed by the customer
- not carry an unrestrained animal (except for an assistance animal)
- convey in the taxi any luggage or goods when requested by a customer
- turn the air-conditioning on, at the request of the customer.

These requirements are often ignored, rarely enforced if at all, and thus do nothing to improve customer service. For example, assuming road safety measures are observed, there appears to be little public benefit in preventing taxi organisations or booking services from allowing customers to travel with their pets.

Removal of the above requirements will have no significant adverse consequences for passenger or driver safety. A systematic failure to respond to customer expectations in this regard will (and should) have financial consequences for the booking service or taxi organisation in question, as customers turn to alternative providers.

Currently, taxi drivers in Sydney, Newcastle and Wollongong must complete two training courses, much of which is related to customer service. These courses cost approximately \$1,200 and take several months to complete.

²¹⁴ Anonymous submission.

²¹⁵ Anonymous submission.

²¹⁶ Anonymous submission.

The low levels of customer satisfaction suggest that the current approach of government mandating particular courses is ineffective. The taskforce has heard from a number of taxi networks that they would prefer to design and offer training to their drivers. One told us that they have started developing and delivering targeted training to their drivers to ensure that they can meet the specific needs of their customers, for example aged and frail customers, and corporate account customers.²¹⁷

Other submissions also proposed a move away from courses mandated by government.

Newcastle Hire Cars' submission said: "NHC has and uses its own induction methodologies and would be interested in making induction programs available to taxi and hire car driver applicants. We are of the view that course fees quoted are at the high end!"²¹⁸

Likewise, Uber's submission stated: "Uber supports general customer service and disabled assistance training for ridesharing drivers, however the delivery of this training this should be devolved from the regulator."²¹⁹

Given the strong calls from industry to assume responsibility for training, the taskforce recommends that the Government no longer mandate any particular courses through regulation. We expect that taxi organisations and booking services will identify their own training requirements, and either deliver such courses themselves, or procure them from external providers.

As discussed in chapter 2, taxi drivers will still be required to demonstrate a minimum level of competency in English and meet a required standard of competency for the safe operation of equipment in a wheelchair accessible vehicle. However, the Government should no longer specify which particular courses should be completed to meet these standards.

Currently, taxi drivers in Sydney must also pass an assessment in geographical knowledge of the area in which they will stand for hire (the metropolitan transport district) and knowledge of the regulation as it relates to the driving of taxis. This requirement does not apply to drivers of other point to point transport services or to taxi drivers providing services outside of Sydney.

Even so, Transport for NSW's customer satisfaction surveys show that 8 per cent of customers – approximately one in 12 – are not happy about relying on the knowledge of the taxi driver to get them to their destination. The taskforce also received a number of submissions from converts to UberX suggesting that taxi drivers did not know where they were going.

Ingogo submitted that Government regulation should provide for both "passengers' and drivers' basic expectations, and these regulations should apply equally to all car-based public passenger services". Ingogo suggested that one such basic expectation of passengers which requires regulation is that "the driver has a reasonable geographic understanding of the area in which the taxi operates and will take the shortest practicable route to the passenger's destination".²²⁰

IAG noted in its submission that "taxis and ridesharing drivers are increasingly dependent on technology such as smart phones and GPS to locate passengers, communicate with them, and take them to their destination".²²¹

The taskforce recommends, given the improvements to and widespread availability of GPS navigation, and the removal of a great deal of detail from the regulation more broadly, that the requirement for Sydney taxi drivers to pass an assessment in geographical knowledge and knowledge of the regulation, as it relates to taxis and driving taxis, should not be retained.

A taxi organisation or booking service may require, of their own initiative, any driver associated with their organisation, to undertake training in relation to route knowledge, but this would no longer be mandated by Government.

217 Information provided by Premier Cabs.

218 Newcastle Hire Cars submission, p.20.

219 Uber submission, p.14.

220 Ingogo submission, p.6.

221 IAG submission, p.15.

Vehicles

The regulation of specifications for point to point vehicles, including wheelbase length, price, seat depth, age limits along with associated inspection requirements adds unnecessary costs to the delivery of services and prevents point to point transport businesses from developing more diversified and innovative responses to customer demands.

The NSW Hire Car Association recommended that:

“... the vehicle type restrictions be removed. The provision of different types of vehicles which will affect the pricing options available to consumers is an important part of expanding services to meet customer needs in the hire car space. While we fully support vehicle standards regulations to be maintained we do not believe that the type of vehicle delivers any benefit or guarantee of service to consumers. Ultimately hire car operators will find suitable niche markets which they wish to pursue and the ability to provide particular vehicle types commensurate with that service is reasonable to expect.”²²²

This view was supported by goCatch, which suggested that the NSW Government “abolish wheelbase and other vehicle restrictions for hire cars”.²²³

While these comments related specifically to hire cars, we see no reason why quality and comfort specifications – such as seating standards and the condition of fixtures and fittings – should be applied to taxis either.

It is clear from the customer submissions provided above that the current specifications and inspection regimes do not meet customer expectations, and we recommend that they be removed.

Taxi organisations and booking services should be able to set their own standards for the quality and types of vehicles used. Similarly, we think that they should apply their own standards for vehicle age limits, much as Uber does now with vehicles used to provide its UberX services.

Taxi organisations and booking services should also be able to establish their own arrangements for ensuring compliance with these standards, including any inspection requirements. In this way, booking services and taxi organisations will have greater accountability to customers for the standards they themselves have set.

The NSW Taxi Council submission expressed frustration at the current situation:

“There are a number of policies and procedures that have been implemented by the NSW Taxi Industry to enhance and maintain quality for drivers and vehicles including self-compliance and auditing regimes, however in the past 12 months, these measures have been substantially diminished as the RMS has removed the relevant authorisations that are required to underpin the success of these programs.”

Under our proposed framework, taxi industry participants would not need any kind of authorisation or permission from the regulator to put in place inspection or auditing regimes for service quality: they would be able to do this in any way they see fit.

We do not expect that these changes will lead to a “race to the bottom” in terms of quality standards. To the contrary, they will incentivise taxi organisations and booking services to build and retain customer loyalty, which is best managed through responding to customer demands relating to service quality.

²²² NSW Hire Car Association submission, p.9.

²²³ goCatch submission, p.4.

Advertising

Advertising in and on taxis is subject to strict and very detailed rules about where and how advertisements can be placed. Drivers are also prevented from allowing any kind of temporary advertising in or on the vehicle. The taskforce accepts that a potential customer should be able to easily identify that the vehicle is a taxi and the name and contact details of the taxi organisation. This has safety as well as customer service benefits.

However, the current prescriptive restrictions frustrate providers' efforts to inform their customers. This is illustrated in the following example provided by to the taskforce.²²⁴

Example

Ingogo provides a booking app and payment system for customers and drivers and has recently secured new corporate accounts. They received feedback from a larger account holder that the system was working well for them for booked trips, but their employees had difficulty trying to pick up an Ingogo-connected car at a taxi rank because they could not easily tell which taxi driver had the Ingogo payment system in their vehicle.

The current restrictions on advertising mean that it is impossible for Ingogo or the driver of the taxi to provide this information to customers by affixing a logo on the vehicle exterior and this is leading to poor customer outcomes.

The taskforce recommends that apart from the regulated safety and security requirements recommended in chapter 3 of this report, there be no other regulated requirements for point to point transport vehicles, including on vehicle specifications, age limits, inspections or advertising.

Taxi networks

The current regulatory framework requires taxi networks in Sydney, Newcastle, the Central Coast and Wollongong to meet and report on key performance indicators (KPIs) on the dispatch of booked services.²²⁵ It also requires that they offer ancillary customer services such as systems to manage lost property and customer complaints and to notify a customer who books a wheelchair accessible taxi service of its estimated arrival time.

The taskforce has heard through submissions and at our consultation meetings with community representatives that not all customers are satisfied with the level of customer service provided by taxi networks. The most common issue cited was the reliability of taxis showing up when booked, which is clearly a major challenge for the industry. Transport for NSW's customer satisfaction surveys confirm that this is problematic, with one in 10 customers being dissatisfied with the on-time arrival of taxis.

A sample of submissions below shows the low levels of confidence the community has about networks in this regard.

"The first week, the taxi came, no problems. The second week though, no taxi came. The third week, no taxi came. Each time [an elderly man] was left waiting on the footpath, no notice of whether a taxi would come or not."

"... they (UberX drivers) always show up when booked, which is not something you can say about taxis. And really, turning up is step one of a two step service. Pick up, drop off. But if you call the centre they have absolutely no idea where they are or how long they'll be. You may as just yell from a window and hope."

"NSW taxis who often cancel my booked job at a moment's notice and I am then left without another taxi picking up my 2nd booking request, so end up stranded and invariably late for work, meetings and appointments."

²²⁴ Letter from Ingogo, October 2016.

²²⁵ As noted in our discussion paper, there is no penalty for failing to meet these KPIs, other than removing authorisation to operate as a network.

Some networks have already begun to adapt. One Sydney taxi network told the taskforce that it had adopted a method of always dispatching the taxi nearest to the customer (rather than to a driver who has been vacant the longest). They also introduced a time penalty for any drivers who reject a booking request. This network said that they now had more repeat business, with customers seeking them out both at taxi ranks and also when placing a booking.²²⁶

In its submission to the taskforce, the NSW Taxi Council noted “the NSW Taxi Industry is exceeding its statutory performance response requirements,”²²⁷ noting an average pick-up time of six minutes and no car available for less than one per cent of bookings. Given the relatively high levels of dissatisfaction found through our consultation and through other customer satisfaction surveys, it seems that meeting these KPIs is insufficient from a customer’s point of view.

There are differences, for example, between the industry’s performance on bookings made in advance and those for immediate pick-up. Data provided by one Sydney network showed the wait time for the former was four minutes compared with seven minutes for the latter, 97 per cent of those who booked in advance were picked up within 18.5 minutes, and 97 per cent of immediate bookings were picked up within 19 minutes. A small number of customers wait for longer periods of time, or have no car arrive at all. This long tail matters: passengers tend to remember long waits and no-shows, particularly if travelling to the airport or an important appointment.²²⁸

IPART considers that taxi network KPI data have a number of limitations. Among other things, it only covers journeys booked through a network which are only around 20–30 per cent of all taxi trips and so does not provide a complete picture of the taxi customer experience. IPART also suggests that networks’ call management strategies can influence how KPIs are recorded.²²⁹

Poor KPI performance has no legal or financial consequences for the networks, and there is no evidence that they are having any reputational impacts. It is unclear what purpose they are meant to serve.

The taskforce has recommended elsewhere in this report that restrictions should not be imposed on the supply of booked-only service providers or vehicles. Should the NSW Government adopt this recommendation, the taskforce considers that customers will have a diverse range of services from which to choose.

Booking services will be motivated to provide a quality service as a means of attracting repeat business. We are aware that two major taxi networks in the Sydney region have already launched significant reforms to address delays in arrivals.

Likewise, as recommended in chapter 8 there will no longer be an obligation on booking services to provide 24/7 coverage, meaning that the KPIs which help establish if this coverage is being provided will become redundant.

In view of these considerations, the taskforce recommends that the KPI reporting requirements for booked point to point services be removed. This does not mean, however, that booking services should not monitor their own performance. To the contrary, we expect that they will set their own KPIs and use them to drive improved performance. A number of networks are already doing so.

226 Information provided by St George Cabs.

227 NSW Taxi Council submission, p.32.

228 Sydney taxi network presentation to taskforce.

229 IPART, Final report: Sydney taxi fares to apply and new licences to be released from July 2015, February 2015, p.46.

Customer feedback and lost property

The taskforce also received submissions which suggest that the ancillary services offered by taxi networks – complaint management and lost property systems – are not reliably meeting customer expectations either.

Vision Australia’s submission described their clients experience with making a complaint to a taxi network:

“Many of our clients tell us that they no longer report issues to the taxi networks because ‘nothing ever seems to happen when I do – the networks always side with the driver rather than taking complaints seriously’ ... Our experience is that most people are deterred from pursuing taxi-related complaints, whether against individual drivers or networks, because they are unaware of the mechanisms available to them, or because they regard those mechanisms as being complex, time-consuming, uncertain, lengthy and stressful.”²³⁰

UberX customers compared their previous experience with recovering lost property through the taxi network with the experience through Uber:

“The amount of times that I have left a phone or wallet in a taxi only to call the company number and be told there is no way for them to know which taxi I was in ... How is that supposed to make me feel safe!? On the contrary, I left my sunglasses in an Uber a week ago and as soon as I realised I called the driver and she dropped them back to me the next day.”²³¹

“I left my wallet in an UberX last week, the driver kindly rang me and drove back the next day to deliver it to me. I cannot express the amount of times myself and friends have left belongings in other taxi companies only to be told ‘nah sorry, we can’t help you. It’s gone.”²³²

“I left a present in the back seat of the Uber. I jumped in my app called the driver and he drove around the block and dropped it off. – service.”²³³

“Our business recently lost a \$500 piece of equipment that was left on the back seat of a taxi by an employee. We quickly called cabcharge and got no help identifying the driver. By the next day we got in touch with the driver and he knew nothing about the equipment. We have switched all of our business to UberX now so that we have more immediate details of driver and trips and transparency of all details of trips made by employees on the company UberX account.”²³⁴

“I have lost \$27,000 worth of photography gear in a Taxi before and there was absolutely no accountability with anyone I tried to contact about tracing the loss.”²³⁵

In Sydney, Newcastle, Wollongong and on the Central Coast, taxi networks are required to be connected to the centralised Customer Feedback Management System (CFMS) operated by RMS. The Government also mandates (very generous) timeframes in which the networks are to deal with the feedback lodged through the CFMS.

Taxi networks must log any items of lost property and any action taken to find the owner. The property must be stored securely until it is either claimed or disposed of. The timing and process for disposing of the item is established by Transport for NSW.

Outside of these urban areas, the requirements are not as prescriptive, but taxis networks must ensure that customer complaints are dealt with quickly and responsibly and that they have facilities for dealing with lost property, including a secure storage area and staff resources. Networks are required to publicise contact officers and contact numbers to assist customers.

²³⁰ Vision Australia submission, p.15.

²³¹ Anonymous submission.

²³² Anonymous submission.

²³³ Anonymous submission.

²³⁴ Anonymous submission.

²³⁵ Anonymous submission.

Customer research indicates that point to point passengers do not think that existing regulation of complaint handling and lost property is effective. Taxi users report that their complaints are often met with a nonchalant or defensive attitude. They also report that they rarely get lost property back. In fact, customers do not expect Government to regulate these aspects of customer service, but expect such services to be offered by the organisation which facilitated the journey.²³⁶

RMS data shows a recent reduction in complaints about taxis compared with previous years. It is difficult to determine if this is due to service improvements, a downward adjustment in expectations or a loss of confidence in the system.

All the above indicates that the prescriptive requirements set through the regulatory framework (whether or not they are being achieved by taxi networks) are not satisfactory to customers.

We therefore recommend that in making taxi organisations and booking services responsible for service quality, there be no prescription or regulatory requirements for ancillary customer services such as lost property or customer feedback. The taskforce expects that the industry will establish whatever measures they consider appropriate to deal with such matters in response to customer demand.

Indeed it is clear that the taxi industry is adapting in response to customer feedback as the NSW Taxi Council has told the taskforce that:

“The NSW Taxi Industry is also reviewing other quality assurance measures that are emerging in the market, particularly in the peer to peer economy where rating systems are being actively used. ... [T]he NSW Taxi Industry will be implementing rating systems, although these will be focussed on the industry (i.e., drivers, vehicles and booking response) and not the passenger.”²³⁷

Customers also recognise the service benefits of such rating systems.

“PDCN recommends that the regulated taxi service instigate an online rating system similar to UberX, to assist in raising levels of service by individual drivers.”²³⁸

“Customers need to be able to rate the driver, car and experience with a star rating system. If a driver drops below a 4.5 average his authority to drive will be suspended for two years and his hire car plates seized for two years. If a customer rates a driver 3 or less then they must provide feedback with a minimum of 250 words before feedback will be accepted; this will prevent riders from frivolously placing a low rating.”²³⁹

As industry transitions to the new regulatory arrangements, the taskforce recommends that the NSW Government continue to undertake periodic customer satisfaction surveys, as well as maintain a centralised customer feedback system for taxi services. Government should provide taxi organisations and booking services with access to this system to enable them to respond to any customer feedback.

In their submission the Atra family identified the need to check a driver's history when they switch between taxi networks. The submission suggested that if:

“... taxi drivers switch between networks, the new taxi network should be required to obtain a reference of that particular driver from the previous taxi network as to the driving history of the driver including a list of complaints filed against the driver, breaches of laws committed by the driver ...”²⁴⁰

We expect that over time, taxi organisations and booking services will be able to establish their own arrangements for ascertaining whether a driver is appropriate for their service. In the meantime, however, the taskforce considers that they should also be able to access the complaint history held by the regulator for any driver, so that they are able to make informed decisions about who they allow to associate with their service, subject to privacy considerations.

236 SMPR for Transport for NSW, p.31.

237 NSW Taxi Council submission p.31.

238 Physical Disability Council of Australia submission, p.10.

239 Benioni Iakoba submission, p.1.

240 Atra family submission, p.9.

7. Supply

Inconsistent requirements for driver authorisations, operator accreditations, vehicle licences and operating conditions across point to point service types and areas have created an environment where the provision of some services, taxi services in particular, involves much higher regulatory costs than others.

The taskforce's recommendations are designed to make it easier for all point to point transport providers to compete on a level playing field. Our proposed new regulatory framework distinguishes between booked services and rank & hail services and our recommendations harmonise, as much as possible, the regulatory requirements within and across these two categories.

All regulatory requirements can influence the availability of services for customers, however, in this section we are concerned with those which have the sole purpose of regulating (and therefore limiting) supply. For example, the Government sets a cap on the number of taxis in Sydney and the current pricing policy for taxi licences outside of Sydney has the effect of limiting the supply in some areas.

In this chapter, we set out how we think the Government should manage supply of services for booked and rank & hail services, and make recommendations relating to the supply of non-wheelchair accessible services. Chapter 8 contains our recommendations for wheelchair accessible services.

Recommendations

The taskforce recommends that:

37. There be no restrictions imposed on the supply of booked-only service providers or vehicles. Further, any government-imposed fees for the authorisation of industry participants should be charged on a consistent basis (e.g., per vehicle, per entity, or per km travelled). These fees should reflect the efficient cost of regulating the booked point to point transport industry, except in the case where the Government chooses to recover costs associated with any industry adjustment package.
38. There be no increase in the number of non-wheelchair accessible taxi licences in Sydney. These arrangements should be reviewed over the next four years as the new regulatory arrangements are put in place.
39. There be no new ordinary taxi licences and short-term licences issued outside Sydney. The Government should instead offer, through a periodic tender process, a small number of annual taxi licences that can be used anywhere in the state outside Sydney.
40. Existing ordinary taxi licences be converted to transferable annual licences that are renewable up to nine times.
41. Taxi licences and their conditions be changed to achieve both greater consistency across licence categories and compatibility with the new regulatory framework. Conditions for WAT licences to be operated using a wheelchair accessible vehicle should be retained. Conditions which restrict Peak Availability Licences to operating at specific times should also be retained, at least in the short term.
42. Any area-based restrictions on the operation of booked services, including booked taxi services be removed. The existing operating boundaries for rank & hail services should be reviewed over the next four years as the new regulatory arrangements are put in place (including arrangements for some increase in taxi licences outside Sydney).

Supply of booked-only services

There are inconsistencies in the way the government controls the supply of booked-only services. For example, vehicle licences are required for unrestricted hire cars but not for tourist services or hire car services that are restricted to providing services for school formals, weddings and funerals. Even the cost of an unrestricted hire car licence varies – a Sydney licence is available for an annual fee \$8,235 and a licence is available for an annual fee of \$3,000 in most areas outside Sydney.

Submissions about whether and how the Government should manage the supply of booked services varied greatly. For example, the Motor Traders' Association did not support any restrictions on supply of hire car services and called for a "reduction in hire car licence, down from the existing dollar values".²⁴¹ Likewise, goCatch suggested that "it should be left to the market to determine the correct number of vehicles to match supply and demand".²⁴²

Other stakeholders suggested that Government should restrict the supply of booked services in various ways. The NSW Taxi Council submitted that:

*"... there is a need to set an appropriate price that reflects the value that the market would place on a private for hire business, with a floor price established by the NSW Government to manage the negative externalities that would emerge from an open ended licence system without any limit."*²⁴³

We also received a submission that called for hire car licence numbers to be "restricted based on ratio 1:5,000 of population"²⁴⁴ and a suggestion that: "Uber drivers should be limited. Maybe restricted on time based as well. i.e. more drivers can be on road during Friday, Sat peak times."²⁴⁵

The NSW Taxi Council also claimed that "evidence is emerging from international jurisdictions that an open ended licence system with no limits is having negative consequences, particularly in the areas of congestion and earnings per vehicle".²⁴⁶ We are aware of data showing the impact of new point to point services on congestion.

For example, in New York City, data show that the presence of Uber has not resulted in an increase in the number of trips being taken in downtown Manhattan, whereas in the outer (less congested) areas both Uber and taxi trips have grown.²⁴⁷

Other articles using the same data have argued that the overall increase in for-hire vehicles will have no doubt increased congestion (along with other causes), but they also point out that these services have provided improved services for neighbourhoods poorly served by taxis, saying that a "heavy handed cap on new services would create new problems".²⁴⁸

Yet another review of the same data suggests that while the number of vehicles and drivers has increased significantly, only a fraction of these drivers is on the road at any one time, suggesting that the New York market has reached equilibrium, with Uber taking about 10 per cent of the market.²⁴⁹ This is what we would expect in cities where there is a robust rank & hail market, and where taxi organisations respond to customer expectations.

There is evidence in other cities that, after making some initial inroads, ridesharing has acquired additional market share principally by stimulating new demand.

The following graph, based on data supplied by taxi and ridesharing providers in Portland, Oregon, strongly suggests that, in that city at least, there are limits to the penetration into the traditional taxi market in the short term. Ridesharing began in Portland in December 2014.²⁵⁰

241 Motor Traders Association of NSW submission, p.13.

242 goCatch submission, p.6.

243 NSW Taxi Council submission, p.37.

244 Silvano Porcaro submission.

245 Ajay Singh submission.

246 NSW Taxi Council submission, p.37.

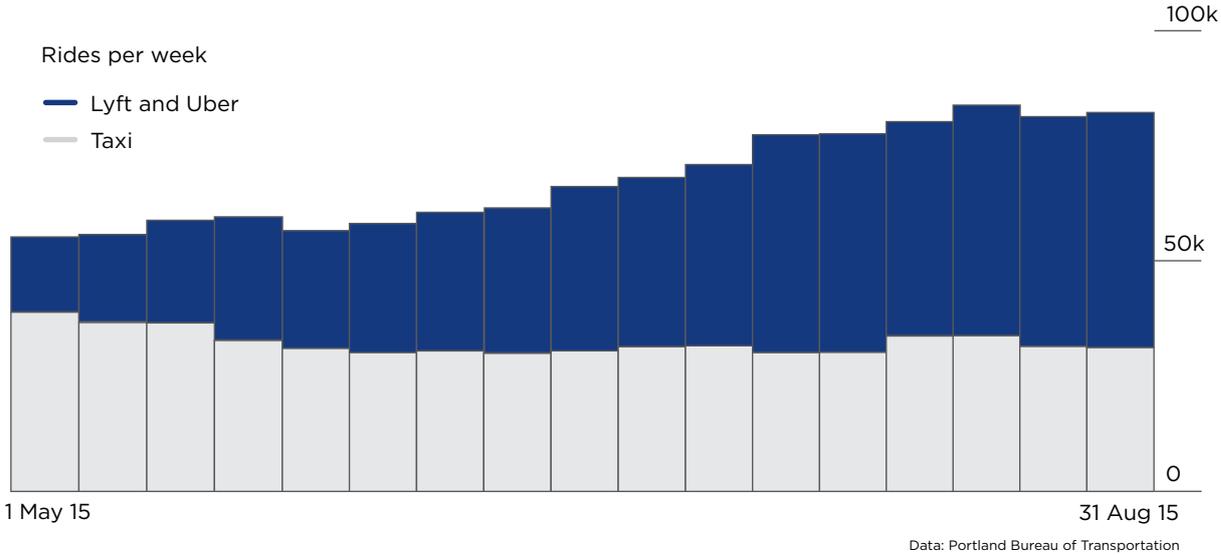
247 <http://fivethirtyeight.com/features/uber-is-taking-millions-of-manhattan-rides-away-from-taxis/>

248 http://www.nytimes.com/2015/07/18/opinion/limiting-uber-wont-end-congestion.html?_r=0

249 <http://observer.com/2015/09/uber-meets-taxis-immovable-object-market-equilibrium/>

250 Portland Bureau of Transportation, "Portland's Private For-Hire Transportation Market: Summary Report of the PFHT Innovation Pilot Program", October 2015, p.7.

Figure 10. Market share of ridesharing in Portland, Oregon



We acknowledge that there could be a reduction in earnings per vehicle should the number of point to point vehicles increase significantly without a concurrent increase in demand. However, we also expect that should our other recommendations to reduce the costs and red tape associated with point to point services and fares for all booked services be adopted, it will create new opportunities for existing providers.

For example a taxi cooperative in a regional centre could more easily expand their business to include vehicles that provide booked-only services, or they could convert one or more of their existing vehicles to booked-only to reduce costs but maintain service levels for their customers.

We would also highlight the fact that rank & hail services make up a significant proportion of taxi work (around 60 per cent of total taxi journeys in Sydney²⁵¹) and that these services would remain the exclusive domain of taxi organisations (the next section deals with our recommendations on taxi licences).

To promote a level playing field within the booked-only service category, we recommend that there be no restriction on the number of booked-only service providers or vehicles. Any government-imposed fees for the authorisation of industry participants should be charged on a consistent basis (e.g., per vehicle, per entity, or per km travelled).

These fees should reflect the efficient cost of regulating the point to point transport industry (except in the situation where the Government chooses to recover costs associated with any industry adjustment package – see chapter 10).

Supply of taxi services

The primary way that Government controls the supply of taxi services is through licences. A taxi licence gives the holder permission to use a vehicle to operate a taxi service. At July 2015, there were 5,917 licences in Sydney and 1,057 elsewhere throughout the state.

Limiting the supply of taxi licences in Sydney goes back as far as the 1930s when restrictions were placed on new licences so that only active taxi drivers could get a licence. Over time, controls over the ownership of licences were relaxed to allow passive investors and trading of licences was permitted, but few new licences were released relative to the growth in demand for services. When the quantity of a service is restricted, it is inevitable that the price will increase as demand rises. This is what happened with taxi licences.

251 Taverner Research, *Report on Survey of Taxi Use*, December 2014, p.29.

By 1990, when legislation formalised the policy of allowing passive investment in ordinary taxi licences, the value of a taxi licence in Sydney was around \$150,000 (equivalent to almost \$300,000 in 2015 dollars). The 1990 Act did not establish any caps on the number of licences however, the high values were a deterrent to purchasing a new ordinary licence in many places across the state.

In 2009, changes were made to taxi licensing in Sydney with the aim of ensuring that the supply of taxis responded to growth in passenger demand. At that time, government introduced annual taxi licences that can be renewed up to nine times, with the price set through auction. These licences can be leased to operators but cannot be sold (that is, they are not transferable). The number of licences, (other than for WATs), is set through an annual determination process. All existing licences were “grandfathered” with existing conditions but transferable licences can no longer be issued in Sydney.

Since the 2009 changes, there has been an increase of around 752 taxi licences in Sydney (a 14 per cent increase), including 354 peak availability licences that restrict when the taxi can operate.²⁵² The impact of these and other changes on the value of taxi licences is discussed in chapter 10.

The process for issuing new taxi licences outside Sydney is the same as that which was in place for Sydney between 1990 and 2009. That is, new ordinary licences are available upon application at current market value. The current practice for determining the market value of an ordinary licence outside Sydney is described in the box below, and was set in 2006 by the then Ministry of Transport.

The cost of purchasing an ordinary unrestricted licence on the secondary market (from a licence owner, rather than RMS) – which the Government can use to inform its determination of the current market value – is less than \$20,000 in some areas and over \$300,000 in others.²⁵³

Wheelchair accessible taxi licences are available for an annual fee of \$1,000 in Sydney, Newcastle and Wollongong and for no fee in other parts of NSW. More information on WATs is provided in chapter 8.

Figure 11. Method for determining the market value of an ordinary taxi licence outside Sydney

Determining the market value of an ordinary taxi licence outside Sydney

The market value of a licence in a particular area of operation is determined having regard to recent licence sales in that area. However, this method is only used where there has been at least three recent licence transfers on the secondary market in the last three years which are “at arm’s length” (that is, they have not been sold between close associates for more or less than market value) and where the most recent completed sales do not vary by more than 15 per cent.

Where there are no recent sales of licences in a region, the market value of a licence is determined by asking the operators in that area to provide industry information about their business. This information is treated as strictly confidential and is analysed to determine the average revenues per vehicle and to determine the estimated market value of a licence.

Where there are no recent sales of licences in a region and where an operator is unable to provide sufficient information upon which to calculate a market value then value is determined by conducting an open bid tender. The open bid process is used to value the licence but not to issue it. Once the market value has been determined, based on the results of the bid process, the licence is offered to the applicant at that price.

252 IPART, Sydney taxi fares to apply and new licences to be released from July 2015 – Final Report, February 2015, p.8.
253 RMS data covering January 2014 to September 2015.

Supply of non-wheelchair accessible taxis for Sydney

While some submissions suggested that taxi licences should be freely available,²⁵⁴ we heard from many stakeholders in the Sydney taxi industry that they were already struggling.²⁵⁵

The NSW Taxi Council explained that “there is an oversupply of taxis in the SMTD [Sydney Metropolitan Transport District] which is contributing significantly to reduced earning for drivers, operators and owners”.²⁵⁶ These sentiments were echoed in submissions that referred to the government “flooding the market”²⁵⁷ and claimed that “IPART recommendations have contributed to an oversupply of taxis in Sydney”.²⁵⁸ Taxi users may well take a different view, particularly in periods of peak demand when they can experience long waits.

It may not be necessary to increase the supply of non-wheelchair accessible taxi services in Sydney in the immediate future. Freeing up the regulation of booked services is likely to have a significant impact on demand for peak services.

However, we also consider that there are characteristics of the rank & hail market that may justify the ongoing management of supply, which do not apply to the booked services market. A rank & hail market only works where there is sufficient density of pedestrian traffic and where customers need to travel distances that are too far to walk. Manhattan and the City of London and the West End are classic examples. Los Angeles is not because of the highly dispersed nature of social and commercial activity, so that booking there is the norm. Sydney’s CBD and some of the surrounding suburbs bear many of the key characteristics of a classic rank & hail market.

At the same time, a rank & hail market relies on the virtual ubiquity of supply – if customers cannot step outside a restaurant or office and immediately hail a cab, or walk to a nearby rank and find a taxi, they will be inclined to book, particularly with the flexibility of new apps and ridesharing systems.

The need for virtual ubiquity implies that there is a tipping point – if the number of available taxis falls below a certain threshold, the market will collapse, and passengers will turn to booking their transport.

In its basic design, a functional rank & hail system is not very different from a successful subway system, where trains run at frequent intervals to many different parts of the CBD. If the frequency and reliability of services drop below a certain threshold, people will stop using the system, causing it to become uneconomic.

This is much the same model that has defined the rank & hail market since hackney carriages first appeared on the streets of London in the early 17th century. There are good reasons why a provincial or municipal government might want to retain such a system. The challenge lies in maintaining virtual ubiquity in a market that is characterised by significant peaks and troughs – there will be plenty of taxis at certain times of the day, and not enough in peak periods.

The potential for the market to collapse due to insufficient taxis is apparent, but the taskforce is of the view that policymakers also need to be careful not to cause providers to withdraw in large numbers because of a massive over-supply of rank & hail vehicles. In short, we believe that there are good reasons why government should proceed with some caution in increasing the supply of taxis (that is, vehicles that can engage in rank & hail).

We consider that there is likely to be an ongoing role for rank & hail services, particularly in Sydney’s CBD and the surrounding suburbs that lie at the business and entertainment heart of the metropolis.

The taskforce considers that Government should not issue new non-wheelchair accessible taxi licences in Sydney until it has a clearer understanding of the impact of the other changes recommended in this report. This position should be reviewed over the next four years as the new regulatory arrangements are put in place.

254 See for example submissions from the Australian Taxi Drivers Association, p. 20; goCatch, p. 6; the Motor Traders Association, pp.3,11; and IPART, p.19.

255 See for example submission from Don Morison, p.1; Abbas Ali Karkaszinal, Maria Dimos, p.1; and the Australian Taxi Drivers’ supplementary submission relating to driver income.

256 NSW Taxi Council submission, p.34.

257 Peter Fieldus submission.

258 Vince Di Lucci submission.

Supply of non-wheelchair accessible taxis outside Sydney

The taskforce has heard from taxi industry stakeholders in regional areas that there is a need to control “the insurgence of community transport, courtesy buses, T.V. licenses [*sic*] and rogue hire car operators who operate as quasi taxis”.²⁵⁹

Regional Taxilines, which operates taxis in several regional centres submitted that “increasing competition from the illegal activities of some hire car operators, impacts of courtesy transport as well as tax payer funded Community Transport have been having a negative impact on a number of taxi operators ... to the extent that some are now only marginal and are considering exiting the industry”²⁶⁰. These sentiments reflect the views of many taxi operators that we met in regional areas.

IPART noted in its recent report on country taxi fares that: “Over the past 10 years, the number of hire cars in Sydney has increased much faster than the number of hire cars outside Sydney.”²⁶¹ In the same report, IPART also pointed out that “both community transport and courtesy transport operators offer limited services (for example, they may not operate at all times) and are only available to eligible passengers”.²⁶²

Likewise, as discussed elsewhere in our report and in submissions, in many parts of regional NSW, aspects of both community transport and courtesy transport are in fact contracted out to taxi operators.

For example, with regard to courtesy transport, Clubs NSW submitted that “strong networks existing between local taxi networks and clubs – and we are of the view that the services are complementary, rather than competitive”.²⁶³ We also heard of several taxi voucher schemes provided by licensed venues when we met with stakeholders in Sydney and around the state.

With regard to community transport, the Community Transport Organisation observed that “many CT providers already utilise taxis to great effect”²⁶⁴ and as shown in chapter 8, data from Transport for NSW suggests that there is in fact, more sub-contracting to taxis in regional areas than in the city.²⁶⁵

It is apparent that in many cases, the demand for community transport and courtesy transport is actually beneficial to taxi businesses. We concluded that whether taxi operators actually benefit from these alternative systems depends in part on the attitude of the operators themselves, although in some towns we did hear complaints about community transport operators who seem to have adopted a less cooperative approach.

With regard to the supply of taxi services, the taskforce notes that in a recent report IPART found that “the annual average growth in taxi licence numbers in recent years was lower than the annual average growth in demand for point-to-point transport outside Sydney” and it “identified a number of barriers to entering the taxi industry outside Sydney, which have led to slow growth in the supply of licences”.²⁶⁶

IPART’s findings imply that there are some areas that face a shortage in the supply of point to point transport services, including a shortage of taxis. However, we stress that the adequacy of taxi numbers is not uniform across the state.

We acknowledge comments from the NSW Taxi Council and Griffith Taxis that “In many instances, towns in rural and regional areas are ‘over-cabbed’ and as a consequence, there are currently nearly 50 licences, or approximately 5% of the NSW Country taxi fleet currently on hold”.²⁶⁷ We agree that there are some areas where the demand for taxis has been declining.

259 NSW Country Taxi Operations Association submission, p.2.

260 Regional Taxi Lines submission, p.1.

261 IPART, Review of taxi fares outside Sydney to apply from July 2015, p.57.

262 IPART, Review of taxi fares outside Sydney to apply from July 2015, p.59.

263 Clubs NSW submission, p.2.

264 Community Transport Organisation Inc. submission, p.2.

265 Community Transport Cost and Pricing Model: Service provision and cost baseline analysis, May 2015, p.27.

266 IPART, Review of taxi fares outside Sydney to apply from July 2015, p.45.

267 NSW Taxi Council submission, p. 36; Griffith Taxis Pty Ltd submission, p.1.

However, as highlighted by IPART in its recent review of country taxi fares, in some areas, licences may have been put on hold to preserve the value of the licence and that this may be having a detrimental impact on the availability of services to the community:

“A taxi operator might put a licence on hold because they consider that there is insufficient demand for taxi services to make it worthwhile to operate the taxi. However, in a market where there are barriers to entry such as high licence prices, putting a licence on hold rather than discounting pay-ins or otherwise dropping the price of the licence may only serve to keep licence prices higher than they otherwise would be. This ultimately leads to higher waiting times for passengers and more expensive fares than would otherwise be the case.”²⁶⁸

We received a submission from one local council where licences are on hold, but where the council receives “complaints from the community in relation to the scarce availability of taxi services, particularly outside of weekday business hours”.²⁶⁹

The council also raised concerns about the non-binding bid process (as described above at Figure 11) which Transport for NSW used to determine the price for a new licence:

“Council is concerned that an expression of interest process for additional licences in circumstances where there are already five disused licences may not be an appropriate way of assessing the current value of a taxi licence. Council is concerned that the process may result in a monopoly provider bidding – which the regulations allow – in order to preserve the value of their existing taxi licences, possibly resulting in two perverse and unintended outcomes:

- 1. it may result in there being additional disused taxi licences; and*
- 2. it may place the commercial interest of a monopoly private provider of taxi services ahead of the public interest”.*²⁷⁰

IPART also expressed concern that there is a lack of transparency in the process for determining the fee for new licences outside Sydney.²⁷¹ The NSW Taxi Council submission also said that “licences should be priced through a transparent open market process”²⁷² but considers that the current arrangements are “appropriate for the management of taxi licences in these areas”.²⁷³

The taskforce considers that high taxi licence values in some areas, combined with the slower pace of entry for new booked-only services, suggests a need for a modest increase in the supply of taxi licences in some areas outside Sydney. We also think that the process for issuing new licences outside Sydney needs to change.

Issuing perpetual and transferable licences has contributed to high licence costs and inflexibility in the supply of taxi services, as noted at the beginning of this section. There were strong views from some stakeholders on how this should now be handled. goCatch’s submission said that “we believe that first, no ordinary unrestricted licenses [sic] should be issued ever again anywhere in NSW”. Likewise, the Motor Traders Association’s submission also suggested that the Government should regulate to make taxi licences non-transferable.²⁷⁴

The taskforce recommends that the Government cease issuing new ordinary taxi licences (and short-term licences using the current method) outside of Sydney. It should instead issue only non-transferable annual licences using a competitive tender process. We recommend the release of a small number of these licences in the near future that can be used anywhere outside Sydney. This will help to ensure that the new licences go to where they are most needed (see below for a discussion on taxi operating areas).

²⁶⁸ IPART, Review of taxi fares outside Sydney to apply from July 2015, p.46.

²⁶⁹ Muswellbrook Shire Council submission, p.1. RMS data verifies this.

²⁷⁰ Muswellbrook Shire Council submission, p.2.

²⁷¹ IPART, Review of taxi fares outside Sydney to apply from July 2015 – Final Report, June 2015, pp. 2, 45,53.

²⁷² NSW Taxi Council submission, p.36

²⁷³ NSW Taxi Council submission, p.36.

²⁷⁴ Motor Traders Association submission, p.3.

The taskforce acknowledges that this will have implications for a small number of short-term licences currently in operation in areas outside of Sydney, as was the case when changes were made to taxi licensing in Sydney in 2009. On or near expiry, these licences could be added back into the stock of licences outside Sydney through the periodic tender process described below.

It is possible that any new replacement licences issued outside Sydney will not be operated in the same areas where the short-term licences expired. This is because any new licence issued outside Sydney would be able to be used anywhere in NSW. However, we expect that making it easier for booked services to be established will mean that local point to point providers should be able to ensure service continuity for customers in those towns which may lose a taxi due to the expiry of a short-term licence which is not replaced by an annual licence.

We note that the NSW Taxi Council called for the introduction of “a class of licence that allows the market to respond to peak demand requirements”²⁷⁵ in areas outside Sydney. This was also supported by Griffith Taxis²⁷⁶. There is a class of such licences in Sydney known as Peak Availability Licences that have restricted hours of operation. However, the taskforce considers that to enable greater flexibility in how taxi organisations provide services, all new non-wheelchair accessible taxi licences for outside Sydney should be unrestricted.

Transitioning existing ordinary (perpetual) licences

The taskforce recommends that all current, existing ordinary taxi licences on issue in NSW be converted to transferable annual licences that are renewable up to nine times. This is the form of new licences currently being issued in Sydney, except that the licences available from the regulator are not transferable.

The objective in moving away from perpetual licences is to reduce the grossly inflated values that have emerged in the NSW market over time, and bring down the fixed costs associated with operating a taxi and ultimately, the cost of fares. This might also be accomplished through a significant increase in the number of annual licences, but this would raise questions about the sustainability of the rank & hail market, particularly given the entry of new providers into the booked services market. It is also evident, based on past experience, that it might not resolve the problem for more than a couple of years.

One option might be to simply abolish all perpetual licences and issue new annual licences through auction, but this would stimulate demands for additional financial assistance in circumstances where the replacement licences would still have significant value. It would also create perverse incentives in the short term, since licence holders would have no ongoing interest in the operation of the market.

The converted ordinary licences should be transferable since this will facilitate change and adaptation in the industry and will allow current licence owners who otherwise play no part in the industry to exit, if they desire, while giving taxi operators access to a licence with some certainty over the medium term to facilitate decision-making about financing vehicles and other costs.

Taxi licence conditions

Each taxi licence is subject to conditions that may be prescribed by regulations and additional conditions may be imposed by RMS. Given the long period over which taxi licences have been issued in NSW, the conditions attached to individual licences or categories of licences vary.

The taskforce has not had time to conduct a detailed review of licence conditions as part of our review. However, we are concerned that some conditions may impose restrictions or obligations that are no longer relevant or do not achieve their intended purpose.

For example, the standard conditions for a WAT licence in Sydney require the licensee to ensure the taxi is available for hire for a minimum of 10 hours each and every day of the year, and that the taxi is available for hire between the hours of midday and 5pm on any day.²⁷⁷ These conditions are in place to ensure supply of wheelchair accessible vehicles when they are needed.

²⁷⁵ NSW Taxi Council submission, p.36.

²⁷⁶ Griffith Taxis Pty Ltd submission, p.2.

²⁷⁷ Information provided by Transport for NSW. This issue was raised by a WAT operator who met with us on 2 October.

However, one WAT operator raised concerns about these conditions making his business commercially unviable, which would appear to undermine the intention of the conditions being imposed in the first place. Likewise, Transport for NSW's 2013 review of wheelchair accessible services recommended "that Transport for NSW should work with the taxi industry to identify ways to promote double shifting of WATs"²⁷⁸ as a way of ensuring that these services could be provided in a sustainable way. We are also aware that licence conditions may include elements that are inconsistent with our proposed regulatory framework.

For example, standard conditions for taxi licences include references to authorised taxi networks and to particular technologies such as "two-way communication or computer terminal". These references would be inconsistent with our proposed framework, which does not rely on "the network" as an entity and moves away from tightly specifying particular technologies.

We consider that the Government should amend, where necessary, the conditions attached to taxi licences to achieve greater consistency across licence categories and compatibility with the new regulatory framework described in chapter 1.

While conditions of any kind may be considered restrictive, the use of the term "restricted licence" is generally used to describe:

WAT licences which require services to be provided using a wheelchair accessible vehicle, or

Peak Availability Licences which can only be used to operate taxi services at specific times of day.

These restrictions are clearly factored into the price of licences and removing these restrictions could, in the case of WATs, reduce services available for wheelchair passengers or, in the case of PALs, increase the supply of taxis in non-peak periods when taxis are already facing difficulties finding adequate work.

We do not consider that the review of licence conditions should consider removing the requirement for WAT licences to be operated using a wheelchair accessible vehicle. Nor should it consider removing restrictions that limit Peak Availability Licences to operating at specific times only, at least in the short term.

Operating areas

Taxi and hire car licences may specify the area of operation. Typically, the licensed area of operation (operating area) corresponds with a transport district, town boundary or local government area.

There are over 170 taxi operating areas in NSW and over 70 hire car operating areas. Taxi operating areas include the Metropolitan Transport District (Sydney), Newcastle Transport District and Wollongong Transport District, and 164 country areas. Hire car operating areas include the Metropolitan Transport District (Sydney), Newcastle Transport District and Wollongong Transport District, and 76 country areas.

A taxi cannot be used for rank or hail journeys that commence outside its operating area. And a taxi also cannot be used for a booked journey that commences outside its licensed operating area unless the journey ends within its licensed operating area or ends outside the operating area of any other taxi. Similarly, a hire car cannot be used for a journey that commences outside its licensed operating area unless the journey ends within its licensed operating area.

Some operating areas, including the Metropolitan Transport District, no longer reflect the urban footprint that existed when licences were first issued for the area. This creates complexities for passengers and drivers. For example, the boundary of the Metropolitan Transport District follows the Nepean River. If a passenger wants to travel across the river – say, taking a taxi from the rank at Penrith train station to their home in Emu Plains – the driver can charge more than the metered fare, although the amount must be agreed between the driver and the passenger before the journey starts.

278 TfNSW WAT Customer Service Initiative Final Report, p.8.

Difficulties for customers and taxis created by operating boundaries are also evident at Newcastle Airport. Port Stephens Council explained that:

“Currently Newcastle Taxis are the only operators allowed to accept fares from the [Newcastle] Airport ... This restriction means that airport patrons from other areas, such as Nelson Bay or Maitland are charged for both out and return journeys if using taxis. That is, they are charged for the empty return journey if using a local taxi operator, as the operator is not allowed to pick-up a fare at the airport.”²⁷⁹

Additionally, Muswellbrook Shire Council expressed frustration that:

“There are no taxi services available in Denman... and the licence held by the operator of the Merriwa... taxi service does not permit any services which originate in the Muswellbrook LGA, Aberdeen or Scone. Merriwa Taxis often operate into Muswellbrook and frequently have long layovers in the town prior to returning to Merriwa. That taxi is unable to operate services within Muswellbrook during that waiting time.”²⁸⁰

In response to our discussion paper, various stakeholders supported the reform of operating areas. The Motor Traders Association said that it “... has been recommending for years to have areas of operation removed (same as buses) state-wide. The areas of operation approach is an unnecessary layer of further red tape.”²⁸¹

The Atra family taxi drivers echoed this sentiment saying that “Having restrictions or zones where taxis operate will only add additional regulatory burden to the government when they could be focussing on the important issues facing the industry.”²⁸² The NSW Taxi Council also acknowledges that “due to inconsistent application of licensing policy ... combined with social and economic change the licence areas in NSW need to be examined”.²⁸³

The taskforce recommends that the Government should remove any area-based restrictions on the operation of booked services, including booked taxi services. This would help to achieve a sensible balance between demand and supply for booked services, and improve the efficiency for providers. For example, if Port Stephens and Maitland based taxis can do booked work in the Newcastle area near the airport, they can more efficiently plan to have taxis available at Newcastle Airport for any booked trips from their customers wanting to travel back to their local area.

The taskforce also sees merit in reforming the operating areas for rank & hail services. However, such a reform is more complex because the demand for taxi services varies between areas while the number of taxis is constrained. As the NSW Taxi Council pointed out, if operating restrictions were removed “taxis would gravitate to the most profitable areas and ignore the less commercial areas”. Newcastle Hire Cars also described the potential for movement of services in and out of Sydney:

“While-ever there are ‘normal’ T-plates in the market there have to be borders or the value of those plates would be severally threatened by what are now regional and country plates ‘invading’ Sydney over special periods while neglecting home markets. The reverse situation could also apply.”²⁸⁴

Consistent with IPART’s view that a “more competitive market without supply restrictions should allow for the removal or rationalising of operating zones for taxis”,²⁸⁵ the taskforce expects that a modest increase in taxi licences for areas outside Sydney, as discussed above, will ease or overcome the problem of licences/services moving to some areas outside Sydney at the expense of other. We expect that the new licences would flow to areas of higher customer demand. This would result in a balance of supply and demand across areas.

We recommend that the Government should review operating areas for rank & hail services over the next four years as the new regulatory arrangements are put in place (including arrangements for a moderate increase in taxi licences outside Sydney).

279 Port Stephens Council submission.

280 Muswellbrook Shire Council submission, p.1.

281 Motor Traders Association submission, p.11.

282 Atra family submission, p.8.

283 Taxi Council submission, p.37.

284 Newcastle Hire Cars submission, p.22.

285 IPART submission, p.15.

8. Transport disadvantage

Governments have adopted a variety of approaches to ensure the mobility of transport-disadvantaged customers who are unable to access mainstream public transport, including people who live in remote areas without access to private transport, the frail aged and people with disabilities.

These approaches include government contracting directly with point to point transport providers through the Commonwealth Home Support Program, the Community Transport Program, the Assisted School Travel Program, non-emergency patient transport programs, and programs for transport under the *Veterans Entitlement Act 1986*.

They also include universal service obligations (USOs) imposed on all taxi services and specific operating requirements for WAT services. In addition, the government subsidises fares for eligible customers through the Taxi Transport Subsidy Scheme (TTSS) and offers subsidies and discounted licence fees to WAT service providers.

This section of the report deals with our recommendations about how we think this combination of programs, incentives and subsidies should change to ensure that customer outcomes are met in a sustainable way.

The rollout of the National Disability Insurance Scheme (NDIS) will have significant implications for the delivery of point to point transport services for people with disabilities. The limited data available from the NDIS Hunter trial site would suggest a slight increase in demand for taxi services.²⁸⁶ Whether this experience is repeated elsewhere around NSW remains to be seen. However, it is reasonable to assume that giving NDIS eligible participants access to funds for point to point transport as part of their package will result in increased demand for those services.²⁸⁷

The recommendations in this chapter are made with this in mind and the taskforce recognises that government intervention in supporting service delivery will continue to be necessary, in transition as well as over the longer term.

Recommendations

The taskforce recommends that:

43. Greater consistency in funding timeframes, tendering requirements and contract specifications for various point to point transport programs (for example, the Assisted School Travel Program, community transport programs and some aspects of non-emergency patient transport) be pursued. Consideration should be given to consolidated contract management to improve coordination and efficiency in service provision, reduce compliance costs and provide greater certainty for point to point providers.
44. The following universal service obligations (USOs) relating to services provided in taxis be removed:
 - the obligation on taxi drivers to accept all hirings when offered,
 - the obligation on booking services for taxis to provide coverage throughout the licensed area 24 hours a day, 7 days a week, and
 - the obligation on booking services for taxis to ensure that 10 per cent of taxis in their taxi fleet be required to carry a child restraint.
45. Larger taxi organisations and booking services (for example, those with 20 or more vehicles in their fleet) be required to provide de-identified trip data to Transport for NSW as a way of monitoring whether all areas or all customer groups are receiving services, and to inform other policy and

²⁸⁶ Information provided by Transport for NSW.

²⁸⁷ According to the NDIS website, NDIS participants will be able to access to funding ranging between \$1,539 and \$3,326 per year for transport if they cannot use public transport without substantial difficulty due to their disability. <http://www.ndis.gov.au/document/participant-transport-funding-informati>

transport planning decisions. If there are identifiable groups of customers who experience a significant negative impact, the Government should consider subsidising services through transparent and properly costed community service obligations (CSOs).

46. The obligation on wheelchair accessible taxis to be available for hire 10 hours a day and the prohibition on the changeover of their drivers between midday and 5pm each day, be removed.
47. The Government investigate how best to ensure booking services for customers requiring wheelchair accessible services can be effectively delivered. Over the short term, the requirement for wheelchair accessible taxis to affiliate with the centralised booking service should be retained, but the Government should directly subsidise the cost of that service (currently met by operator affiliation fees), as an explicit CSO.
48. In relation to the funding for the Taxi Transport Subsidy Scheme and the incentives available for wheelchair accessible services, the Government, as a matter of priority, move to a service provider-neutral transport subsidy scheme for people with disabilities. In doing so, it should examine:
 - the viability of wheelchair accessible services given the higher capital and running costs associated with providing these services, and
 - the effectiveness and adequacy of passenger subsidies and other incentives for the provision of services to all people with disabilities, with a view to directly subsidising some aspects of service provision, where necessary.

As a transitional measure, the existing subsidies and incentives should remain in place.

49. Given the changes taking place in the point to point transport industry, NSW Government approach the Commonwealth and other jurisdictions about consistency in application of the Disability Standards for Accessible Public Transport (DSAPT) across industry participants and the appropriateness of current or proposed standards.

Contracting with service providers

Until the recent change in focus to direct funding of eligible participants (as with the NDIS and the NSW Government's earlier initiative to provide individualised funding packages for people with disabilities²⁸⁸), the provision of transport to people who can't access mainstream public transport was largely focused on government contracting for services directly with point to point transport providers.

Examples of these programs include the Commonwealth Home Support Program (CHSP – formerly the Home and Community Care Program), the Community Transport Program (CTP), the Assisted School Travel Program, non-emergency patient transport programs provided through the local health districts, and programs for transport under the *Veterans Entitlement Act 1986*.

All of these programs require customers to meet specific eligibility requirements, and often, the clients have mobility restrictions which mean that they require additional assistance in accessing the vehicle. Under all of these programs, customers receive service from a variety of sources, including taxis, hire cars and community transport service providers.

Services provided under the CHSP and the CTP are more likely to be provided by community transport operators, with about 10 per cent of work being sub-contracted to taxis.

Information provided by Transport for NSW suggests that there is more sub-contracting to taxis in regional areas than in the city, with more than a quarter of trips in the New England, Central West and Illawarra being provided in taxis, and 20 per cent in the far west of the state.²⁸⁹

Concerns about quality and appropriateness of taxis for this work, as described below, and what appears to be a conservative approach to market development on the part of some taxi operators, may be contributing to a lower involvement of taxis in the provision of this service.

²⁸⁸ https://www.adhc.nsw.gov.au/about_us/media_releases/2011mr/nsw_government_moves_towards_individualised_funding_for_disabilities

²⁸⁹ Transport for NSW, Community Transport Cost and Pricing Model: Service provision and cost baseline analysis, May 2015, p.27.

The Country Taxi Operators Association submission suggested that the taxi industry “needs to be given the opportunity to tender for Home and Community Care [CHSP] work, non-urgent patient transport and any government funded transport that can be serviced by the taxi industry”.²⁹⁰ This sentiment was also expressed at our regional meetings. The taskforce understands that CHSP funds for some areas, including Dubbo and Tenterfield, have recently been put to tender, and regional taxi businesses were given the opportunity to bid.²⁹¹ We are unaware of the result of these tenders.

The taskforce also heard from regional taxi operators that they were concerned about competitive neutrality, particularly in relation to services provided by community transport operators under the CHSP.²⁹² Contracts with community transport providers specifically prohibit the use of CHSP funds to cross-subsidise other services, meaning that the only services these funds can legitimately be used for are those provided to clients meeting eligibility requirements under the program.²⁹³

This does not mean that vehicles funded under these programs must not be used for other services, but if they are used, the full cost of providing the service (for example, the depreciation on the vehicle, the fuel, driver and administration costs, etc.) cannot be subsidised by the funding program. Such costs must be accounted for separately and fully reimbursed to the program.

Competition for services under these programs, and the method and timing of procurement, differs depending on the program. All have different funding horizons, with different specific contracting requirements that service providers must meet. In many cases, the same individual is a client across several programs.

The Interim report of a Ministerial Inquiry into Sustainable Public Transport from 2003 noted that: “The large number of providers and the fragmented funding pool make it difficult to maximise the use and effectiveness of existing resources.”²⁹⁴ The taskforce considers that this largely remains the case today.

Should governments continue to use direct contracts with service providers under these programs, they should pursue greater consistency in funding timeframes, tendering requirements and contract specifications, and give consideration to consolidating contract management (with eligibility for clients determined by the agency which funds the program). This would improve coordination and efficiency of service delivery, give providers some certainty about the capital investments needed (particularly for wheelchair accessible vehicles) and reduce compliance costs.

Experience using contracted taxi services

The taskforce heard from stakeholders that they have had variable success in using taxis to provide services under community transport programs and other contracting arrangements for customers with specific point to point transport needs.

Clients of these services are often using these services for medical and other appointments, and reliability of service is extremely important. We have been consistently told of clients of these programs having problems with the reliability of taxis.²⁹⁵

A submission from a community transport provider expressed it this way: “The networks are not consistent and we have found that we have received better service by taxi drivers and hire car companies who we can book directly with and form a relationship with.”²⁹⁶

Several community transport organisers told us that their local taxi providers offered not a “door to door” service, but a “gutter to gutter” one,²⁹⁷ because of the tendency for some drivers to sit outside in the car, waiting for the passengers to emerge. Likewise, concerns have also been expressed about the behaviour of some drivers towards these clients.²⁹⁸

290 Country Taxi Operators’ Association submission, p.2.

291 Information from Transport for NSW.

292 See for example Regional Taxi Lines submission. This was a common theme at our regional meetings also.

293 Information provided by Transport for NSW.

294 Ministerial Inquiry into Sustainable Public Transport, Interim Report, 2003. p.163.

295 Taskforce meetings in Western Sydney, Dubbo, Nowra, Tamworth and Coffs Harbour.

296 Activus Transport submission, p.1.

297 Taskforce meetings in Western Sydney, Dubbo and Nowra.

298 South West Community Transport submission, p.2.

Of course, some taxi businesses have grasped the need to package the passenger journey with additional care for clients with special needs, and training and certification programs have been introduced at various times.

A Sydney taxi network told us of a trial with NSW Health for a service to transport dialysis patients in Sydney and the Hunter which involves specific training for drivers and more personalised service. The network believes this has led to significant cost savings for NSW Health and has vastly improved passenger waiting times.²⁹⁹

But, it is apparent from submissions that many traditional taxi providers have struggled to adjust. The taskforce was pleased to learn that the NSW Taxi Council:

“... recognises the need to expand its service offering to remain sustainable, particularly in regional areas. Building partnerships with community groups and all levels of government is critical for the NSW taxi industry to ensure the transport cluster can service growing community needs.”³⁰⁰

Universal service obligations for taxis

In an attempt to ensure service availability for all people, regulatory obligations have been imposed on taxi networks, operators and drivers which here we refer to as ‘universal service obligations’ (USOs).

Two of the most widely known USOs on the provision of taxi services are the prohibition on drivers refusing service to passengers except under prescribed circumstances, and the requirement that authorised taxi networks provide a booking service throughout the licensed area of operation 24 hours a day, 7 days a week.³⁰¹ Another is the requirement for authorised taxi networks to ensure that at least 10 per cent of taxis on any day are fitted with a child restraint.³⁰²

While the taxi industry and some other stakeholders would like these USOs retained, the taskforce has heard that they are not working for many customers, are contributing to the rigidity of the industry and adding costs which are then passed on to passengers. We consider that USOs are a key contributor to the lack of a level playing field across point to point services, as described below.

Effectiveness of universal service obligation for customers

Some stakeholder submissions discussed the importance of the USOs for customers. The NRMA's submission suggested that:

“... taxis should continue to provide universal access, which is vital to overcoming social and economic isolation for many. NRMA believes the universality of taxis is a key point of difference and can indeed be a competitive advantage for the taxi industry.”³⁰³

The NSW Taxi Council argued that:

“Taxi services form part of the public transport system. It [sic] provides services across the spectrum and does not discriminate in relation to access ... It would be considered a retrograde step should the universality of taxi services be removed. It would have negative consequences for consumers, particularly those who live in remote areas and also those who have less ability to pay for point to point services.”³⁰⁴

The NSW Taxi Council's submission does not, however, provide any information to suggest that the current universal service obligations are achieving their stated aims. Indeed, the taskforce heard from a number of stakeholders that, in practice, many USOs are far from universal in their application and that despite these obligations, many taxi users across the state experience difficulties in getting a taxi.

299 Presentation from Premier Cabs.

300 NSW Taxi Council submission, p.44.

301 This would be applied to booking services under the 2014 Act.

302 The NSW Taxi Council submission implied a further service obligation: "... where the NSW Government confers a licence on a taxi for a defined geographical area, then that taxi, in accordance with its community service obligation, must provide a universal service for all". The taskforce reviewed a number of sample taxi licence documents and did not find conditions on any licence which obliged the licensee to provide universal service. There may be such conditions placed on licences issued in the past, which we have not had the opportunity to review. (See chapter 7 for our recommendations on licence conditions.)

303 NRMA submission, p.15.

304 NSW Taxi Council submission, p.18.

Vision Australia's submission stated that "universal service obligations have not resulted in a guaranteed or even predictable service, and they have not helped reduce the barriers that people who are blind or have low vision experience when using taxi services".³⁰⁵

Many submissions from former taxi users also articulated problems with availability. For example:

*"As a gay young disabled man I have had shocking experiences with taxis so much so that I never want to use them again. I have had many drivers over the last 10 years refuse to pick me up - and I have often overheard their comments - they didn't want to go a short distance ..."*³⁰⁶

*"... I am sick of taxis pulling up asking me where I want to go and then refusing to take me as they speed off with me leaning into the window. That is my personal experience with taxis."*³⁰⁷

In the taskforce's regional consultations, owners of pubs and clubs noted the difficulties their patrons experienced in getting a taxi on busy nights.³⁰⁸ In Sydney, qualitative research conducted on behalf of the taskforce with taxi users revealed a widespread belief that taxis are unreliable because sometimes they do not show up, in some cases (it was thought) because drivers had refused a short fare.³⁰⁹

This result is consistent with TfNSW's Customer Satisfaction Index for May 2014 which showed that 10 per cent of customers were dissatisfied with how long it took for a taxi to arrive and nine per cent were dissatisfied with the availability of taxi services.³¹⁰

South West Community Transport noted the unreliability of taxis for their clients:

"Taxi drivers:

- *Cherry pick jobs*
- *Need to be reliable. If they accept a job they should not be able to drop it when a better offer comes along.*
- *Will not accept short distance bookings, even when an additional tariff over \$10 is offered above other costs which would normally be incurred."*³¹¹

The Physical Disability Council of NSW (PDCN) submission reported a similar experience:

*"At present regulated taxis often 'cherry pick' their fares, choosing not to accept a fare if it is of a short distance. As an example, on three separate occasions in this past year PDCN have booked both WAT and regular taxis for their members to transport them from the PDCN office in Glebe to Central Station, only to have no taxi show to complete the fare, even after numerous additional calls to the service."*³¹²

Despite infringements for fare refusals being consistently among the most frequently issued, these experiences appear to be quite common.³¹³

We conclude that the regulatory obligations to accept all hirings and provide a booking service throughout the licensed area of operation 24 hours a day, 7 days a week have failed to a significant degree. As discussed below, they have also possibly undermined the incentives to anticipate and adjust to changes in patterns of demand.

The availability of child restraints in taxis was not often mentioned in submissions or meetings, but there is no evidence that regulation and enforcement by government is making any difference. At some places, such as airports, there is likely to be demand from rank & hail customers for child restraints, but most point to point customers requiring child seats are likely to make a booking. The situation at airports can be accommodated, as it is now, by airport staff responsible for managing taxi queues.

305 Vision Australia submission, p.5.

306 Anonymous submission.

307 Anonymous submission.

308 Taskforce meeting in Tamworth.

309 SMPR for Transport for NSW p.14.

310 TfNSW, Customer Satisfaction Index 2014, p.20.

311 South West Community Transport submission, p.4.

312 PDCN submission, p.10.

313 Data supplied by Transport for NSW.

Decisions about the availability of child restraints are best left to the owner of the vehicle and the booking service or taxi organisation (just as hire car and tourist vehicle businesses do now). Based on overseas experience, it seems likely that some providers will decide to specialise in providing services to families with children, and build a brand anchored around this particular service offering. We therefore recommend that the obligation for booking services for taxis to ensure that 10 per cent of the fleet must have child restraints should be removed.

Impact of USOs on industry structure

Apart from being only partially effective, the obligation to provide coverage throughout the licensed area 24 hours a day, 7 days a week entrenches particular industry structures and reduces the ability of businesses to tailor their products to the needs of customers.

The requirement to constantly service a large geographical area makes it difficult for new networks to start providing niche services and by its very nature favours larger networks. This has negative consequences for competition, as smaller networks are in a weaker position to entice operators, and operators have less freedom to shop around to get a good deal on the services provided by networks.

The Country Taxi Operators' Association's submission noted that "by 1958 the Sydney Metropolitan Area had thirteen (13) Taxi Cooperatives servicing Palm Beach to Helensburg [*sic*] and the Eastern seaboard to Nepean River (Emu Plains)".³¹⁴

Nearly 60 years later, the number of unique providers has contracted rather than grown, which is not what might have been expected in a vibrant, competitive industry.

Nominally there are around the same number of networks, but six of these are owned or controlled by one firm, with around two thirds of all taxis in Sydney affiliated with one of these six networks. The largest network in Sydney has increased its share of taxis substantially over the past six years (from around 37 per cent of taxis in 2009 to 46 per cent of taxis in 2015).³¹⁵

In contrast, in other parts of the point to point transport sector which have experienced some degree of deregulation, such as tourist vehicles and hire cars, there has been much greater diversification, as different providers, many of them small and medium enterprises, have flourished, targeting particular customer groups or geographical areas.

These observations lead us to conclude that the universal service obligation is adding extra costs which harm the viability of taxi services, especially in regional and remote areas, as it requires taxis to be available at uncommercial times while their competitors do not. At our meeting in Tamworth, taxi operators from around the region indicated that the 24/7 service requirement meant that there were a lot of empty hours.³¹⁶ Likewise, operators in Dubbo pointed out that it was unfair that hire cars don't have to provide services 24 hours a day while taxis do.³¹⁷

At the same time, as noted in several places above, the USO may result in the taxi industry, and particularly the networks, benefiting from certain structural advantages.

We believe that removing the requirement for services to be provided throughout the licensed area 24 hours a day, 7 days a week will give taxi organisations and booking services more opportunity to develop local solutions, using a mix of vehicles to tailor their offerings to particular groups of customers. This may be particularly beneficial in country areas where authorised networks are currently obliged to have services available when there is very little, if any, demand.

We recommend that the requirement for booking services to be provided 24 hours a day, 7 days a week be removed.

³¹⁴ Country Taxi Operators' Association submission, p.1.

³¹⁵ Data from Transport for NSW.

³¹⁶ Taskforce meeting in Tamworth.

³¹⁷ Taskforce meeting in Dubbo.

In the future, a taxi organisation or booking service may still decide to provide a level of service during quiet times as a customer service measure, but they will make that decision. It will be in their interest to build a strong brand known for reliability. Indeed, advice from the Victorian Taxi Services Commission suggests that since the obligation was removed from licensees to provide service 24 hours a day, 7 days a week in that state there have not been complaints about a downturn in availability.³¹⁸

Further, we anticipate that by allowing taxi organisations and booking services more flexibility in how and when they provide services, the availability of services may improve. The immediate popularity of ridesharing in Sydney suggests that there is latent demand for point to point transport which service providers will be able to explore under the new regulatory framework.

We expect that new models of service provision will expand to meet demand in both urban and regional areas. The NRMA pointed to one market niche which it considers to be unexplored:

“Outside of Sydney, limited public transport (or none at all), and relatively higher costs of owning and running a car mean that transport disadvantage is more profound. Additionally, a more rapid ageing of the population in non-metro NSW is likely to underpin a level of demand for transport alternatives for years to come.”³¹⁹

Two studies from the United States seem to suggest that the entry of new point to point providers has resulted in increased demand for services, particularly in areas that were not well served previously.³²⁰

We have no reason to believe that similar results should not be expected here, although we accept that there may be different effects in different parts of NSW. IPART’s submission recognised this and in supporting the removal of the universal service obligation, its submission recommended that “the availability of point to point transport services should be monitored to assess whether all segments of the market are being adequately served”.³²¹

The taskforce agrees with this suggestion, and recommends that in addition to continuing to conduct surveys of point to point customers, Transport for NSW should collect de-identified trip data by time of day and origin-destination in an electronic format from larger taxi organisations and booking services as a way of monitoring whether all areas or all customer groups are receiving services. A larger taxi organisation or booking service could, for instance, be one which has more than 20 vehicles. If there are identifiable groups of customers who experience a significant negative impact, the Government should consider subsidising specific services.

The data collected would have other benefits, for example, for identifying where taxi ranks should be located or to assist in setting maximum fares for rank & hail services, as recognised by a number of submissions. “Data collected by booking apps must be provided to TfNSW, as reasonably requested, on trips taken by time, location and destination to help inform transport policy-making.”³²²

“Uber can leverage data provided by the Uber platform. This data can provide new insights to help manage urban growth and planning, relieve traffic congestion, expand public transport, and reduce greenhouse gas emissions.”³²³

Assistance to people with disabilities

The Taxi Transport Subsidy Scheme (TTSS) provides subsidised travel, allowing approved participants to travel by taxi at half fare, up to a maximum subsidy of \$30 per trip. There is no cap on the number of trips or amount of subsidy an individual can receive in a year. These arrangements have not changed for many years.

There are currently around 47,000 registered TTSS participants in NSW.³²⁴

318 Phone hook-up with the Victorian Taxi Services Commission, 1 September 2015.

319 NRMA submission, p.14.

320 Portland Bureau of Transportation, Portland’s Private for-Hire Transportation Market: *Summary Report of the PFHT Innovation Pilot Program*, p. 7 and <http://fivethirtyeight.com/features/uber-is-serving-new-yorks-outer-boroughs-more-than-taxis-are/>

321 IPART submission, p.6.

322 NRMA submission, p.13.

323 Uber submission, p.47.

324 Transport for NSW data.

Table 2. Profile of Participants in the Taxi Transport Subsidy Scheme

Scheme categorisation³²⁵	M40 (do not require a wheelchair accessible vehicle)	M50 (require a wheelchair accessible vehicle)
Number of participants ³²⁶	33,000	14,000
Average age of participants/ (% aged over 60) ³²⁷	74 years / 80%	67 years / 68%
% of participants with an annual pre-tax household income of less than \$40,000	91%	73%

The taskforce received submissions from several stakeholder groups saying that they have been calling on the Government for several years to make changes to the subsidy rate and fare cap to improve access for people with disabilities, particularly in areas where public transport is not accessible.

In their submission to the taskforce, the Physical Disability Council of NSW (PCDN) recommended that “the TTSS subsidy be increased from 50% to 75% for people with disability entitled to the M50 benefit, or whom are dependent on wheelchair access and are either frequent users of WATs, or otherwise use WATs for the purposes of education or employment.”³²⁹

Likewise, Spinal Cord Injuries Australia (SCIA) strongly recommended Government “increase the TTSS subsidy to 75% of a \$120 taxi fare ASAP as the TTSS subsidy has become ineffective and adversely affecting people with disability who require WATs”.³³⁰

Vision Australia noted that the maximum TTSS subsidy has not increased in almost 20 years and requested that that “the cap on the M40 subsidy be increased from \$30 to \$50 per journey in metropolitan areas, and \$70 in regional and country areas”.³³¹

In 2015, the average subsidy for a TTSS trip is \$11.75 for customers not travelling in a WAT and \$15.64 for customers requiring a WAT,³³² which is below the cap. However, we would also note that taxi fares have increased by around 76 per cent in Sydney and 70 per cent in regional NSW since 1999. In comparison, Consumer Price Index increased by 54 per cent and wages increased by 68 per cent over the same period.

The taskforce recognises the merit of calls for the subsidy to be increased, although we do note that the NDIS means that the half of the fare currently paid for by TTSS participants will be covered by NDIS funds for those who are eligible for the NDIS. (We acknowledge there are likely to be some TTSS participants who are not eligible for the NDIS.)

We are also mindful that the taskforce’s recommendation to deregulate all booked fares (including for taxis) is likely to have implications for TTSS participants, although it is not yet clear what those implications will be. We consider that this question of the level of subsidy should be dealt with as part of broader changes to how point to point services for people with disabilities are provided.

³²⁵ The TTSS has a range of eligibility categories including mobility/ambulatory, vision, intellectual, speech/hearing/functional and epilepsy. Most M40 and M50 users qualify on mobility/ambulatory grounds.

³²⁶ Transport for NSW data.

³²⁷ Transport for NSW data.

³²⁸ Stancombe for TfNSW, Wheelchair Accessible Taxi Customer Research Report, May 2013.PCDN submission, p. 5.

³²⁹ PCDN submission, p.5.

³³⁰ SCIA submission, p.8.

³³¹ Vision Australia submission, p.10.

³³² Transport for NSW data.

Vision Australia's submission called for the TTSS to be expanded beyond taxis. It made the point that "the restriction of the M40 scheme to taxis is fast becoming an anachronism that is incompatible with contemporary social policy".³³³ It also noted that:

*"While extending the M40 subsidy to other point to point transport modes may lead to additional costs for the scheme, we think that these increases would be offset by the fact that fares such as those of UberX are up to 40% less than taxis, so the amount of M40 subsidy would in many cases be less per journey. In any case, the amount of M40 subsidy is capped, so even if a scheme participant chose to use a more expensive point to point transport mode, the amount of subsidy applicable would still be the same as if it were used in a taxi."*³³⁴

The NRMA submission also suggested that there needed to be a greater range of point to point transport options for people with disabilities: "NRMA believes that in order to provide for improvements in workplace participation and community engagement for the disabled, there needs to be a greater range of point to point transport options including taxis, community transport and emerging ridesharing services."³³⁵

The taskforce considers that the movement to individual budgets (most notably but not exclusively through the NDIS) will only strengthen the case for this approach.

In relation to the TTSS and the incentives supporting provision of WAT services, we recommend the Government move to a provider-neutral approach to assistance for customers in meeting their transport needs (see below). We also urge the NSW Government to speak to the Victorian Government about the review of its Multipurpose Taxi Program, which is considering applying the scheme to a broader range of services.³³⁶

The taskforce is aware that Transport for NSW is moving away from paper-based TTSS vouchers to implement an electronic payments system.³³⁷ This will greatly improve the ease of using the scheme for passengers and drivers as well as enhancing Transport for NSW's ability to address fraud and misuse of the scheme. It was supported by Vision Australia's submission,³³⁸ as well as by various stakeholders at consultation meetings with the taskforce. We are also mindful that should the Government accept our recommendation to move to a provider-neutral scheme, this will have implications for the work already underway on the payment system for the TTSS.

Specific measures for wheelchair accessible taxi services

The Government has a range of incentives intended to enhance the availability of WAT services and imposes certain obligations on their operation. Some incentives appear to have generally enhanced customer outcomes for WAT users, with average pick-up times improving since they were introduced, and relatively high levels of customer satisfaction.³³⁹

A Transport for NSW 2013 survey of WAT customers found that 48 per cent of customers considered WAT service had improved over the previous five years, with the most frequently cited reason (44 per cent) being improved availability. Overall, people requiring WATs appear to be satisfied with the responsiveness of booked services with 93 per cent of booked WATs arriving on time or early.³⁴⁰

This was reflected in submissions, with IPART pointing out that: "Initiatives such as the centralised booking service, lift fee, and lower cost licences appear to provide a level of service for wheelchair-using passengers in NSW that compares well to services available in other states."³⁴¹

³³³ Vision Australia submission, p.11.

³³⁴ Vision Australia submission, p.11.

³³⁵ NRMA submission, p.14.

³³⁶ Department of Economic Development, Jobs, Transport and Resources, *Improving transport for Victorians with limited mobility; A better Multi Purpose Taxi Program*, Discussion paper, September 2015.

³³⁷ Minister for Transport and Minister for Disability Services, Improved services for customers with disabilities, Media Release, 16 February 2015 <http://www.transport.nsw.gov.au/media-releases/improved-services-customers-disability>

³³⁸ Vision Australia submission, p.10.

³³⁹ Data provided by Transport for NSW and the Stancombe for TfNSW, Wheelchair Accessible Taxi Customer Research Report, May 2013.

³⁴⁰ Stancombe for TfNSW, Wheelchair Accessible Taxi Customer Research Report, May 2013.

³⁴¹ IPART submission, p.6.

However, the 2013 survey also found that 25 per cent of WAT customers reported booking a WAT that “didn’t turn up” in the last year; an occurrence most marked on the Central Coast, where 36 per cent of customers reported this had happened, despite this area having the highest percentage of WATs in their fleet.³⁴²

We are also concerned that despite the range of incentives to enhance the availability of WAT services, their financial viability may be declining because of the obligations imposed on them through licence conditions.

Licence operating conditions for WATs

In addition to the obligations relating to service coverage and accepting all fares (which apply to all taxis), there are obligations placed on wheelchair accessible taxis which force them to be used in particular ways, and this affects their viability.

The standard conditions for a WAT licence in Sydney require the licensee to ensure the taxi is available for hire for a minimum of 10 hours each and every day of the year, and that the taxi is not subject to changeover of drivers between the hours of midday and 5pm on any day.³⁴³ WATs must also give preference to WAT bookings. One operator of a large WAT fleet raised concerns about these conditions and the practicality of them in light of the financial challenges he is currently facing.³⁴⁴

The taskforce also notes that Transport for NSW’s 2013 review of wheelchair accessible services recommended “that Transport for NSW should work with the taxi industry to identify ways to promote double shifting of WATs”³⁴⁵ to increase utilisation of these vehicles so that they continue to be viable.

As for the more general USOs imposed on taxis, we are of the view that attempts by government to ensure availability of WATs by trying to mandate personal behaviours and to institutionalise particular delivery models through regulation have been substantially ineffective.

Furthermore, these obligations have imposed a direct cost on businesses, impairing their ability to innovate, with questionable outcomes for the viability of wheelchair accessible service providers, and service for customers. We therefore recommend that the Government move away from placing obligations on providers of wheelchair accessible services.

Incentives relating to wheelchair accessible vehicles

Government offers several incentives to increase the availability of WAT vehicles. These include: low fee or free WAT licences, interest-free loans for WAT vehicles in country NSW, and an extended age limit for WATs of 10 years across NSW (compared with six years in Sydney and eight years in country areas for standard taxis). In the past the Government also issued unrestricted “nexus” licences to networks to subsidise WAT services.

From what the taskforce has heard during consultation, the commercial viability of wheelchair accessible services varies between areas and from operator to operator. Some WAT operators have been able to operate their businesses successfully and are looking to expand, while others are close to leaving the industry.³⁴⁶

Removing the current incentives and subsidies would likely result in existing wheelchair accessible services becoming non-viable. NCOSS’s submission “cautions against any restriction of the current incentives provided by the NSW Government to provide wheelchair-accessible services”.³⁴⁷ Likewise, the NRMA noted that “regulations to ensure supply of wheelchair accessible taxis (WATs) and the Taxi Transport Subsidy Scheme (TTSS) should remain in place to ensure a base level of supply”.³⁴⁸

³⁴² Stancombe for TfNSW, Wheelchair Accessible Taxi Customer Research Report, May 2013.

³⁴³ Information provided by Transport for NSW.

³⁴⁴ Taskforce meeting with WAT operator, 2 October 2015.

³⁴⁵ TfNSW WAT Customer Service Initiative Final Report, p.8.

³⁴⁶ Taskforce meetings in Tamworth, 3 August 2015 and Sydney 8 October 2015.

³⁴⁷ NCOSS submission, p.1.

³⁴⁸ NRMA submission, pp. 12-13.

In the past these incentives have assisted in making WATs commercially attractive for operators. The 2005 Fitzgerald Inquiry into the viability of WATs noted that buying and operating a WAT is more expensive than a regular taxi. This is due to the higher vehicle cost, the cost of converting the vehicle to make it wheelchair accessible and the higher ongoing maintenance costs. However due to government interventions, chiefly the low licence lease fee, and the ability to perform non-WAT work, WATs were found to be commercially viable.³⁴⁹

The PCND noted that “the heavy discount on WAT licences is a means of increasing the supply of WATs, and thereby lowering the gap between response times for WATs and standard taxis”.³⁵⁰ A submission from a WAT operator indicated that:

“When demand for taxi services is buoyant, the rental prices of unrestricted Sydney taxi plates are also buoyant. This is where the wheelchair taxi operator enjoys an advantage by way of the differential between the cost of renting a wheelchair taxi plate and the cost of renting an ordinary, unrestricted Sydney taxi plate. This advantage or subsidy is essential to the wheelchair taxi operator’s profitability and economic viability. The reason that the subsidy is essential is because the costs of commissioning and operating a wheelchair taxi greatly exceed those that attach to operating a regular taxi in Sydney.”

He went on to say:

“... in a tough business environment, we can expect that wheelchair taxi services will be differentially affected by way of inferior cost competitiveness versus the operation of alternative taxi transport vehicles. In this event, like a canary in a mine, we can expect that business failures in the taxi industry will emerge first amongst the operators of the wheelchair taxi fleet. ... Margins for wheelchair taxi operators have contracted to levels that are described by many wheelchair taxi operators as the worst business conditions they have ever seen.”³⁵¹

Indeed, Transport for NSW data shows that the number of wheelchair accessible taxis increased significantly while the price of non-WAT licences kept rising in Sydney, but in recent years this has tapered off (as non-WAT licence prices have fallen), to the extent that there has been very little WAT fleet growth in Sydney since 2013.

Furthermore, none of the other subsidies or incentives associated with wheelchair accessible services has changed since the Fitzgerald review in 2005, despite higher operating costs. For example, the Wheelchair Accessible Taxi Measurement Protocol came into effect in 2008, which has restricted the range of vehicles that may be used as WATs. The taskforce does not dispute the benefits of these measures in terms of accessibility; however, it must also be noted that these are costly requirements which may be negatively affecting the viability of services.

A submission from a taxi operator in Orange made the following observation:

“In Orange the taxi co-op has provided the WAT service for over 20 years. The next financial year 15/16 the co-op is forecasting approx. \$50k loss. These losses are covered by small business owners. This makes the WAT service unviable ... 3% of the work in Orange is WAT related and most of this comes in small windows through the day. So simply reducing the number of WATs is not the answer this would result in not meeting customer needs at peak [sic] times. When you calculate the cost of a WAT vehicle it is 300% more to purchase and maintain. This has to be a formula to fail. No interest free loan can make up for this loss.”³⁵²

The PCND submission noted that while the interest free loans are available to regional WAT operators, the availability of WATs varies greatly across different regional areas, and recommended direct subsidy of WATs in regional areas so that there is one WAT for every thousand residents.³⁵³

349 Fitzgerald, R., Report to the Wheelchair Accessible Taxi Taskforce, August 2005, p.6.

350 PCND submission, p.6.

351 Anonymous WAT operator submission.

352 William Copelin submission

353 PCND submission, p.4.

The Victorian Government currently provides grants (rather than interest free loans) for wheelchair accessible taxi vehicles. However, the discussion paper on the Victorian Government's review of the Multipurpose Taxi Program suggests that the rationale for this is not clear. It states that:

"The total wheelchair accessible taxi fleet has only increased by five since 2012. Further, a small number of wheelchair accessible taxis service a large proportion of all wheelchair journeys. Insufficient evidence exists to justify the increasing proportion of program costs going towards drivers and operators to improve services for wheelchair users. There is a need to consider how best to support the point to point transport needs of wheelchair users."³⁵⁴

One Sydney WAT operator told the taskforce that it currently costs about \$100,000 to put a WAT vehicle on the road.³⁵⁵ This includes the cost of the vehicle (\$45,000), conversion costs for accessibility (\$32,000³⁵⁶), the fit-out as a taxi and other set-up costs. The modifications to the vehicles shorten their economic life and lower the resale value.

He also said that given the high up-front costs, a common way for a taxi operator to get a taxi on the road is through a financing package (with interest charged at 11 per cent) with the larger networks which includes the vehicle, fit out (and conversion if it is a WAT), the licence, insurances and the network services (security monitoring, etc.).

We were told that when the vehicle and licence is bundled in this way, an operator is charged \$380 per month for the lease of a WAT licence, which is substantially more than the \$1,000 per year (or approximately \$20 a week) RMS charges for a WAT licence.³⁵⁷

In the time available, the taskforce has not been able to verify how widespread such mark-ups are, or what is involved in arriving at the price. However, this does appear to erode the benefit of having a cheaper licence and adds weight to our view that moving away from the current model must be prioritised.

The above leads the taskforce to believe that the existing incentives for WAT vehicles are unlikely to remain effective over the coming years and as we have indicated, we are of the view that there should be a move to a provider-neutral scheme.

Incentives for drivers of wheelchair accessible taxis

The WATDIS (Wheelchair Accessible Taxi Driver Incentive Scheme) (also known as the "lift fee") funded through the TTSS³⁵⁸ pays WAT drivers \$8.47 for every WAT hiring they undertake, and has been in place since 1 December 2007 (the amount has remained constant since it began).³⁵⁹ The Government also funds the mandatory training that WAT drivers must currently undertake.

Different jurisdictions take different approaches to the "lift fee", with no incentive payment in some states and a much higher incentive payment in others (Victoria pays \$16.50 per WAT trip – this is being reviewed as part of the Victorian Government's review of the Multipurpose Taxi Program³⁶⁰).

While in general terms the lift fee appears to have contributed to increased availability of WATs, the taskforce has heard that in recent times, its effectiveness may be questionable. The SCIA submission noted that there is no incentive for WAT drivers to respond to the bookings quickly as "WAT drivers are paid the Bonus payment regardless of the time it takes to respond to a booking".³⁶¹

354 Department of Economic Development, Jobs, Transport and Resources, *Improving transport for Victorians with limited mobility; A better Multi Purpose Taxi Program*, Discussion paper, September 2015, p.15.

355 Taskforce meeting with WAT operator in Sydney, 8 October 2015.

356 The taskforce notes that there may be purpose built vehicles available in future which reduces this cost.

357 Taskforce meeting with WAT operator in Sydney, 8 October 2015.

358 The WATDIS fee was initially funded out of taxi operator accreditation fees. However, due to an inadequate pool of funds available the fee was shifted to the TTSS in 2011.

359 Transport for NSW, Wheelchair accessible taxis, <http://www.transport.nsw.gov.au/operators/taxis/wheelchair-accessible-taxis>, accessed 29 October 2015.

360 Department of Economic Development, Jobs, Transport and Resources, *Improving transport for Victorians with limited mobility; A better Multi Purpose Taxi Program*, Discussion paper, September 2015.

361 SCIA submission.

It went on to say:

“SCIA is aware that there are ‘black spots’ for people with disability experiencing poor WATs service around the outer Sydney Metropolitan area ... there is an urgent need to improve the WAT services in the Black Spots, SCIA would strongly recommend that the Bonus Scheme be reviewed for its effectiveness with consideration to stop paying the \$8.47 Bonus Scheme payment and introduce a \$20 WAT driver Bonus Scheme incentive for WAT drivers to respond to radio bookings in Black Spots.”³⁶²

Vision Australia’s submission suggested a similar kind of incentive scheme to encourage drivers to pick up blind passengers, given the difficulty blind customers have in getting timely access to services.³⁶³

From an industry perspective, we heard that WAT operators are struggling to attract and retain WAT-qualified drivers in the face of other changes occurring in the point to point market, we are concerned the driver payment may no longer be effective in achieving the purpose for which it was introduced.

“The operators of WATTS [sic] vehicles in regional areas have a major problem. It is difficult for them to obtain relief drivers because of the draconian demands placed on a WATTS [sic] qualified driver... Those members of the community least able to bear it suffer because of excessive government regulation.”³⁶⁴

In relation to the training of drivers of wheelchair accessible services, the taskforce considers that its recommendations on how driver requirements are managed under the proposed regulatory framework (see chapter 3) should make it easier for drivers to undergo appropriate training for wheelchair customer work.

A Sydney-based WAT fleet operator told the taskforce that increasing demand for drivers in other point to point transport services has made it difficult to retain drivers and as a result, 10 per cent of his WAT fleet is now idle. He also said that non-WAT work, which has traditionally been relied upon to remain viable, is decreasing with growing competition. As operator margins are so small, this loss of revenue threatens the viability of his whole business.³⁶⁵

This was echoed in a submission from an anonymous WAT operator: “the provision of wheelchair taxi services relies on a buoyant demand for regular taxi work, which, in effect, subsidises the provision of wheelchair taxi services”.³⁶⁶

SCIA’s submission suggested that increased competition would have a detrimental effect: “... it may result in many regular taxi and WAT drivers not only losing their livelihood, but possibly taxi drivers leaving the WAT service to either work in another industry or possibly drive for UberX”.³⁶⁷

This statement confirms our view that any provision of government assistance for wheelchair accessible services, and for services for people with a disability more broadly, should be provider-neutral. We consider that the current incentives that are extended to wheelchair accessible taxi drivers should be examined for their effectiveness and adequacy, with a view to moving to a provider-neutral scheme.

³⁶² SCIA submission.

³⁶³ Vision Australia submission, p.5.

³⁶⁴ Goulburn Radio Cabs Co-op submission, p.1.

³⁶⁵ Taskforce meeting with WAT operator in Sydney, 8 October 2015.

³⁶⁶ Anonymous WAT operator submission, p.2.

³⁶⁷ SCIA submission, p.5.

Centralised booking service for customers requiring WATs

In Sydney, bookings of wheelchair accessible services are generally made through Zero200, the centralised booking service that WAT operators must be affiliated with. It is not possible to ascertain the exact proportion of WAT journeys booked through Zero200, but it is estimated they account for around 70 per cent of WAT bookings in Sydney.³⁶⁸

Zero200 is provided by one of the taxi networks which charges operators additional network fees of \$2,130 per year to meet the cost of providing the service³⁶⁹ (on top of regular network fees of around \$8,000 per annum).³⁷⁰ In this sense Sydney's centralised WAT booking service is unique; where such services operate in other Australian cities, they are procured under contract by government.³⁷¹

Representatives of a Sydney taxi network and some taxi operators have told the taskforce that the Zero200 dispatch methods lead to longer than necessary waiting times for WAT customers.³⁷² While the taskforce cannot independently verify this claim, when we approached the provider of the Zero200 service about these concerns we were advised that "a brief review has not given cause for concern re Zero200 dispatch causes of delay".³⁷³

Transport for NSW's 2013 survey found that the needs of WAT customers who book directly with the taxi driver are met more effectively than those booking through the centralised booking service. The 2013 survey also found that while customers rated the booking experience lower in terms of importance when compared to other features of service, it also had lower levels of satisfaction.³⁷⁴ One submission to the taskforce suggested that "we would see that the current function and cost of the Zero 200 Network be transferred to such Booking Services as may wish to take on that specific area of responsibilities ..."³⁷⁵

A centralised booking service has made it easier for customers to access wheelchair accessible services. However, given the above, we believe that the Government should investigate how best to ensure booking services for customers requiring wheelchair accessible services can be delivered, including in the context of moving to a provider-neutral model described below.

This investigation should include examining how new technologies can improve the customer booking experience. For instance, Smartphone applications and internet-based facilities can include features to make them accessible for people with disabilities, particularly for those who are visually impaired or unable to use a phone with their hands.

Furthermore, as we are advocating a shift away from the use of USOs to more direct CSO support from the government for these services, we recommend that in the interim, the Government directly subsidise the cost of the centralised booking service now met by operator affiliation fees.

This would have the benefit of reducing costs for wheelchair accessible services and would also provide the government with greater ability to influence service improvements for customers.

³⁶⁸ Data provided by Transport for NSW.

³⁶⁹ Information provided by Cabcharge.

³⁷⁰ Taskforce meeting with a Sydney WAT Operator, 8 October 2015.

³⁷¹ This is the case for Canberra and Adelaide. This was also recommended for Melbourne by the Fels Inquiry. However, it does not appear to have been implemented. Instead, the Victorian Government contracts with the two largest taxi networks for WAT bookings.

³⁷² Taskforce meetings with a Sydney network and with taxi operators held separately on 1 October 2015.

³⁷³ Email from Mr F. Lukabyo, 19 October 2015.

³⁷⁴ Stancombe for TfNSW, Wheelchair Accessible Taxi Customer Research Report, May 2013. "Those who booked directly with a taxi driver were much more likely to have their needs met completely and needs are least likely to be met completely if the WAT was booked specifically through Zero200."

³⁷⁵ Australian Taxi Drivers Association submission, p.16.

A provider-neutral scheme for services for people with disabilities

The sections above show that many of the government's approaches to ensuring the mobility of transport-disadvantaged customers have focused on taxis. However, the structure of incentives and obligations may no longer be appropriate for these services.

New models of service provision are also responding to the needs of transport-disadvantaged customers. For example, some ridesharing platforms have begun to offer services for the people with disabilities.³⁷⁶ In Sydney this includes UberASSIST which is a ridesharing service for people with folding wheelchairs, walkers, and collapsible scooters.³⁷⁷

Carers NSW views on this issue identified a need to focus on the needs of the passengers, rather than on the service provider:

“Carers NSW can see the potential for ridesharing services to provide alternative transport options that may be more affordable and flexible for carers, older people and people with disability. We also acknowledge that traditional point to point transport services such as taxis and community transport are limited in what they can offer carers and the people they care for. New forms of transport could be more tailored to a carer's needs and reduce waiting times.”³⁷⁸

In some other cities, platforms are offering the option of booking a fully wheelchair accessible vehicle.³⁷⁹ Uber Australia's submission noted that: “uberASSIST partner vehicles do not have accessible ramps or lifts but it is Uber's intention to work with the community to partner with owners of wheelchair accessible vehicles that are wheelchair accessible and offer rides on the platform”.³⁸⁰

Indeed, the taskforce is aware of a recent trial in Brisbane of UberWAV, which involves services being delivered in wheelchair accessible vehicles.³⁸¹ Community transport providers also have wheelchair accessible vehicles in their fleet and we see no reason why these vehicles should not be more readily used to provide services under the scheme.

In relation to the TTSS and subsidies for wheelchair accessible services, we recommend that the Government, as a matter of priority, move from a taxi-only subsidy scheme to a service provider-neutral subsidy scheme for people with disabilities. This should be open to any point to point transport provider covered by our proposed regulatory regime. In doing so, the Government should examine:

- the viability of wheelchair accessible services given the higher capital and running costs associated with providing these services, and
- the effectiveness and adequacy of passenger subsidies and other incentives for the provision of services to all people with disabilities, with a view to directly subsidising some aspects of service provision, where necessary.

As a transitional measure, the existing subsidies and incentives should remain in place.

³⁷⁶ Lyft and Uber both provide the option of booking an accessible vehicle in various US cities. <https://lyft.desk.com/customer/portal/articles/1641629-accessible-vehicle-dispatch> <http://newsroom.uber.com/philly/2014/09/your-wheelchair-accessible-vehicle-has-arrived/>

³⁷⁷ <http://newsroom.uber.com/australia/2015/05/uberaccess-expanding-transportation-options-2-2/>

³⁷⁸ Carers NSW submission, p.3.

³⁷⁹ <http://kdsmartchair.com/blogs/news/43644419-accessible-transportation-with-uber-and-lyft-for-wheelchair-users>

³⁸⁰ Uber submission, p.27.

³⁸¹ Email from Brad Kitschke, Uber Australia, 28 October 2015.

Disability standards for accessible public transport (DSAPT)

Of all the point to point transport providers covered by our review, only taxis are currently covered by the Commonwealth Government DSAPT. These standards require taxis to meet allocated space requirements, establish certain standards for vision impaired customers and also require that WAT booking response times are equal to those of standard taxis.³⁸²

Both SCIA's and PCND's submissions noted that the current standard for equal response times for WATs was not being met in Sydney.³⁸³

Some submissions to the taskforce sought to have aspects of the DSAPT apply to all point to point service providers,³⁸⁴ and others sought to expand existing standards on the identification of vehicles used for point to point services, such as requiring that raised numbering be included inside the taxi for vision impaired people.³⁸⁵ Some stakeholders would also seek to introduce new standards for certain aspects of service provision – such as a requirement that all booking apps and payment devices meet accessibility guidelines.³⁸⁶

SCIA's submission also raised the issue of terminology and how it relates to different point to point industry participants under the DSAPT:

“... as transport providers and operators are required to comply with the Transport Standards, SCIA would like to ask the NSW Government to clarify who is deemed to be considered the transport provider and/or operator within the Uber fleet of services?”³⁸⁷

The taskforce notes that the DSAPT are subject to regular and ongoing review by the Commonwealth in partnership with the states and territories. The matters raised by stakeholders in terms of the consistency in application of the DSAPT across point to point industry participants and the appropriateness of current or proposed standards should be raised by NSW with the Commonwealth and other jurisdictions.

³⁸² http://transportinfrastructurecouncil.gov.au/publications/files/Review_of_Disability_Standards_for_Accessible_Public_Transport.pdf

³⁸³ SCIA submission, p.6; PCND submission, p.5.

³⁸⁴ SCIA submission, pp. 1, 10; David Houghton Submission, p. 1, Vision Australia Submission, p.6.

³⁸⁵ Vision Australia submission, p.9.

³⁸⁶ Vision Australia submission, p.6.

³⁸⁷ SCIA submission, p.5.

9. Compliance and enforcement

The recommendations below provide a compliance and enforcement framework appropriate to the regulatory arrangements recommended in this report. They will enable the regulator to promote compliance, to monitor industry participants' performance according to their obligations and in cases of non-compliance, to take action which is appropriate to the circumstances and proportionate to the risk.

Recommendations

The taskforce recommends that:

50. The future regulatory framework:

- provide the regulator with powers to promote and monitor compliance and a range of instruments and penalties to enable it to respond to cases of non-compliance in a manner which is appropriate to the circumstances and in proportion with the risk presented
- enable auditing of the systems and processes that taxi organisations, booking services and vehicle owners use to ensure that they comply with their obligations, to require them to retain records of compliance with their obligations, and to make all such records available to the regulator
- include a requirement that any records that must be kept under the proposed regime be retained in NSW and establish an appropriate extraterritorial jurisdiction provision
- include facilitation of a contravention of the law as an offence.

51. The regulator:

- develop the capacity of its compliance and enforcement staff to ensure they have the skills and knowledge to effectively undertake its functions under the proposed regime, and
- develop and publish a compliance and enforcement policy.

52. The penalties under the proposed regime be set to effectively deter all industry participants from contravening the law.

Compliance regime

Under current arrangements, RMS is mainly responsible for monitoring and enforcing compliance; taxi networks are the only industry participants to have any role in ensuring compliance (with service standards).

Feedback to the taskforce reflected dissatisfaction with compliance and enforcement under current arrangements. Taxi industry participants expressed frustration about the lack of enforcement action against ridesharing services:

"The current situation is farcical. The government cannot prosecute 'ridesharing' drivers and is unable to impose any sanctions on Uber ...The government is to blame for this even beginning to occur and continuing without any intervention. It has been totally incompetent and impotent in its handling of the 'ridesharing' issue in allowing a foreign company to commence its operation and thrive without any restrictions to the extreme detriment of its own citizens."³⁸⁸

In relation to future arrangements, the NSW Taxi Council expressed the view that "key to establishing and maintaining a competitively neutral point to point regulatory framework is effective and efficient compliance. Laws need to be clearly defined and any ambiguity removed where possible."³⁸⁹

³⁸⁸ Atra family submission, p.9.

³⁸⁹ NSW Taxi Council submission, p.40.

IPART stated in its submission: “A revised regulatory framework in NSW will need to ensure that the providers in the supply chain for point to point transport have clear accountabilities, and that the regulator is empowered to enforce those accountabilities.”³⁹⁰

The regulatory provisions outlined in chapter 1 establish obligations for industry participants who will need to accept greater responsibility, and will be held accountable for ensuring they comply with those obligations. This change in focus needs to be accompanied by measures that promote compliance and, in cases of non-compliance, enable appropriate and proportionate enforcement action to be taken.

Promoting compliance

Under the recommended approach (described in detail in chapter 1), there would be a clear chain of accountability, with obligations to provide for customer and driver safety and consumer protection resting with the entity or entities that have the management, control, influence and information to fulfil those obligations.

The regulator would need to rely heavily on education and advice to clarify participants’ accountabilities, to provide guidance on establishing the systems and processes to ensure participants comply with their obligations, and to identify the penalties for non-compliance. This will be especially important in the period the industry is transitioning to the new arrangements, and we have proposed that the transitional assistance office should play an active part in this process. Ongoing education and advice will be needed, particularly in the process of transition, to promote a culture of compliance and industry accountability.

Compliance will be monitored through periodic audits and inspections. The legislation will need to provide for auditing of taxi organisations, booking services and vehicle owners, oblige them to retain records related to compliance, and to make those records available on request. IPART’s submission referred to its Licensing Framework which notes that “optimal compliance regimes involve targeted inspections rather than blanket inspections and exceptions reporting rather than periodic reporting”.³⁹¹ As with other regulated sectors, audits need not be undertaken directly by the regulator.

RMS has experienced difficulties obtaining information to support action against Uber drivers because much of the relevant information is held off-shore. To address this, the taskforce recommends the future regulatory framework include a requirement for any records required under the proposed regime to be retained in NSW. We also recommend there be an appropriate extraterritorial jurisdiction provision to enable the regulator to take enforcement action against industry participants whose operations are based off-shore, when they contravene the law.

Dealing with non-compliance

Under the recommended approach, several parties would (in many cases) have a level of accountability for outcomes and, depending on the circumstances of any non-compliance, the regulator could take action against any or all of these parties. This is different to the current approach which largely sees RMS focus enforcement on the actions of drivers and operators.

The circumstances of any instance of non-compliance will vary, including the seriousness of the incident based on its actual or potential impact and the level of risk. In its submission IPART expressed the view that “penalties for breaches should be commensurate and scalable”.³⁹²

The taskforce agrees with this position and recommends that the regulator be provided with a range of instruments and penalties to enable it to escalate its response according to the circumstances and in proportion with the risk presented at the time. Each finding of non-compliance would be considered so that the most appropriate option (or options) for the circumstance is applied.

The discussion paper identified limitations of current arrangements in this regard. Specifically it noted that token fines may be issued to taxi networks for failing to report their KPIs, but apart from removing the network’s authorisation there is no penalty for not *meeting* these targets.

³⁹⁰ IPART submission, p.16.

³⁹¹ IPART submission, p.17.

³⁹² IPART submission, p.17.

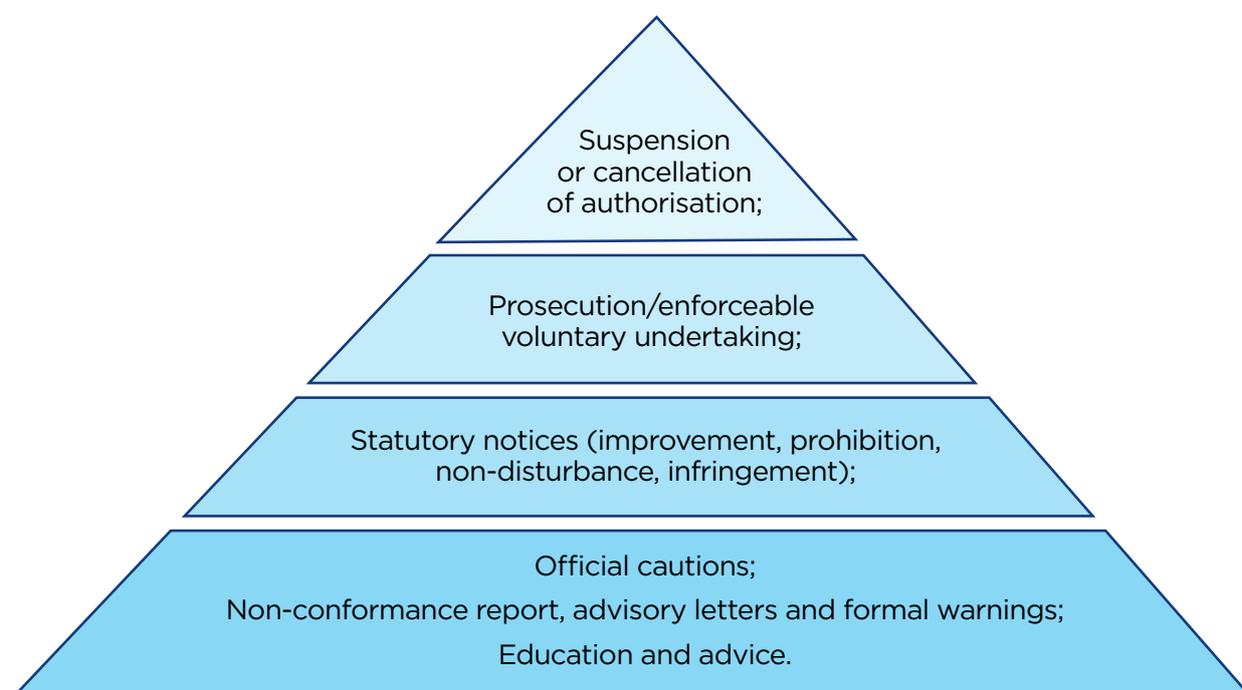
Depending on the circumstances, interventions could range from advisory letters, formal warnings, “show cause” letters and cautions through to a range of statutory notices (improvement notices, prohibition notices, non-disturbance notices, infringement notices) through to prosecutions and suspension or cancellation of authorisations for serious regulatory breaches.

The difficulty in taking action against Uber occurred because while the company is pivotal to the operation of its drivers, Uber’s activities are not themselves illegal, and there is currently no offence of facilitating a contravention of the law. The taskforce recommendations capture ridesharing in the proposed regime as a booked service, and so it could be argued that a facilitation offence provision is no longer needed.

However since the changes recommended by the taskforce cannot anticipate all future developments that may impact on the sector, it is recommended the regulatory framework include such a provision.

The diagram below captures the types of measures that might be made available to the regulator to promote compliance and address instances of non-compliance, with the most punitive measures at the top.

Figure 12. Range of possible penalties under the proposed regulatory framework



Regulator capabilities

The compliance and enforcement framework involves a significant shift in approach for the regulator. It will require greater collaboration with industry initially to transition to the new arrangements and on an ongoing basis, to foster a culture of voluntary compliance and industry accountability, and to respond appropriately in cases of non-compliance.

A number of submissions to the taskforce raised concern about RMS performance in this area.

“We believe RMS enforcement officers need far better training on enforcement activities. We cannot understand why they have not been able to collect data on a large number of UberX drivers before being recognised and blocked. We also cannot comprehend how they are not able to collect sufficient data when undertaking and completing a booking to satisfy the courts. This has been completely mishandled and mismanaged by RMS compliance team and there needs to be an overhaul of that team to make it more effective.”³⁹³

393 goCatch submission, p.7.

“If UberX is allowed to operate, there must be an enforcement body created to enforce the law. The RMS was not created as an enforcement agency and this is evident in their lack of success in curbing the illegal UberX drivers. This shows how ineffective they have been in enforcing the Passenger Transport Act.”³⁹⁴

“Major changes needed in the point to point industry include a totally new regulator, which is not the captive of either the Cabcharge Corporation or Ride Sharing interests.”³⁹⁵

The regulator will need to change its approach to ensure staff have the skills and capabilities necessary to promote, monitor and enforce compliance under the proposed regulatory regime.

We believe that a compliance and enforcement policy should be developed and distributed to industry. This is routine practice in other regulated sectors and would explain the regulator’s approach: how the regulator will undertake activities to achieve compliance and would guide its decision-making to ensure compliance activities are consistent, fair and credible.

Such a policy would inform industry what they can expect from the regulator and address concerns such as those of the NSW Taxi Council.

“The NSW Taxi Council has also been very disappointed in the performance of the regulator generally. The NSW Taxi Industry has experienced poor performance from the regulator in terms of processing times for driver and operator authorisations, difficulty in responding to basic enquiries and changes in policy with little or no consultation. Furthermore, the NSW Taxi Council has received little or no support from Government agencies on industry initiatives such as improved meter and receipt standards, vehicle inspection protocols, despite these issues having been raised over a number of years.”³⁹⁶

IPART’s submission refers to its Licensing Framework which “notes that compliance should be monitored and enforced using a risk-based approach”.³⁹⁷ To ensure its activities target the greatest risks and those industry participants least likely to comply, the taskforce believes such an approach should underpin the RMS compliance and enforcement policy.

Penalties

The regulatory approach recommended by the taskforce places the onus on industry participants to comply with their obligations, and to a large extent its effectiveness will depend on the penalties for breaches of the law being set so as to deter non-compliance.

Submissions to the taskforce commented that current penalties were insufficient for this purpose:

“Further, we recommend there should be more extreme and severe consequences in cases where there is proven non-compliance such as loss of license and confiscation of vehicles for any hire car operator found to be breaking the law in regards to ‘rank & hail’ activities in regional or other locations. We feel this should also be the case for other non-compliant activities such as solicitation or ‘touting’ at airports and other public venues. The establishment and enforcement of such strong measures would greatly reduce non-compliance in our views.”³⁹⁸

“We do not believe the driver safety and competence regulations should be applied differently to different service providers in the taxi industry. However it may be necessary to consider whether the penalty regime as applied to different service providers is currently adequate to prevent contraventions, such as: whether the penalty regime is sufficient to deter organisations with significant capital resources to pay fines as an expense of doing business ...”³⁹⁹

The taskforce recommends that penalties under the proposed regime be set to effectively deter all industry participants from contravening the law.

³⁹⁴ ATRA family submission, p.5.

³⁹⁵ Don Morison submission, p.1.

³⁹⁶ NSW Taxi Council submission, p.40.

³⁹⁷ IPART submission, p.17.

³⁹⁸ NSW Hire Car Association submission, p.8.

³⁹⁹ Ingogo submission, pp.3-4.

10. Transition

If adopted, the recommendations in this report will involve a significant change to the way in which the industry is structured and managed, and the manner in which Government interfaces with the point to point transport sector. Of necessity, this will result in a complex and, for some, a difficult period of adjustment. We believe that Government has a vital role to play in facilitating this change.

The taskforce recommends that:

53. A transitional assistance office be established to provide advice, education and support to industry participants (in particular, taxi operators).
54. Ongoing education and guidance be provided to industry participants about their obligations under the regulatory framework.
55. Transport for NSW develop a public education campaign about how the changes will affect customers.
56. The Government provide transitional assistance to the owners of perpetual taxi licences, based on equity and hardship grounds; financial assistance to other industry participants is not recommended.
57. As part of any adjustment assistance package:
 - a significant level of transitional assistance be provided to current owners of taxi licences to partially offset the expected reduction in income from the licences; resulting from converting ordinary taxi licences to transferable annual licences
 - a hardship fund be established to provide assistance to licence owners especially adversely affected, such as those at or near retirement with few other assets or sources of income
 - a panel be established to assess any applications for assistance from the hardship fund and make determinations about any assistance to be given to applicants.

Impact of proposed changes

The terms of reference ask the taskforce to consider the implications of reform for economic productivity. Our recommendations are designed to re-set the regulatory framework, opening the way for innovative new models of booked service delivery and liberating the taxi industry from a regulatory and cost burden that is making it difficult for it to compete, whilst ensuring safety for customers and drivers.

The taskforce's recommendations provide regulatory certainty to organisations that have not yet entered the NSW point to point market. We note that the NRMA has advised that it is potentially interested in providing point to point services for its members. There are also overseas providers who may decide to establish operations in NSW, such as Lyft, which has previously approached the Government about the possibility.

Our recommendations would also remove unnecessary regulatory burdens on the existing industry, creating a more level playing field which will allow service providers to compete more effectively on service and price.

In much of the discussion concerning the future of the point to point market, there has been an assumption that new entrants will be in competition with incumbents for a limited pool of customers. This was also evident in many of the submissions the taskforce received from industry participants. Based on the experience of the taxi industry over recent decades, it has been assumed that demand will grow roughly in line with GDP.

Evidence is emerging from overseas markets which suggests that this is not a valid assumption. In New York, the total number of rides in traditional yellow taxis, the new green Boro taxis (introduced in 2013 to serve passengers outside of the Manhattan core) and Uber had increased by around 18 per cent in the

two years from June 2013 to June 2015. Some of Uber's growth has come at the expense of taxis, but particularly outside of the CBD, that growth has mostly come from new users. It appears that ridesharing has created new demand for point to point transport services.⁴⁰⁰

A similar pattern is evident in recent data published following the entry of ridesharing into Portland, Oregon: while taxis have suffered a fall in total patronage, most of the growth in ridesharing has come from new demand (see Figure 10 in chapter 7).⁴⁰¹

It remains to be seen whether taxis and hire cars are able to respond to the competitive pressures created by the arrival of new entrants (and these will not be confined to Uber), but this is not a zero-sum game. If they respond with innovative service offerings in booked services, there is the potential for them to stimulate new demand.

This was evident in some submissions to the taskforce. Current users of ridesharing noted that the expansion of transport options is adding to their use of point to point services rather than just replacing trips in taxis:

*"Taxis will always have their place and I still use them today, but I think it is all about allowing consumers to choose how they want to travel."*⁴⁰²

*"I find since I started using Uber I am more inclined to go out than previously. I find I am taking outings locally across a few suburbs. I tend to leave my car at home. The wait time is usually less than 5 minutes and it is cheaper. From my experience I am not taking away from the taxis as I would not have chosen to go out previously. Uber makes it so easy and they are so quick I don't hesitate to go out. This is good for business and the community as I am out there spending more."*⁴⁰³

*"While it is true that ridesharing is directly competing with taxis for fares, NRMA believes that due to price and ease of booking, ridesharing services have been able to tap into new demand. In other words, many ridesharing trips are for passengers who would otherwise have caught public transport or not travelled at all."*⁴⁰⁴

As noted in chapter 7, there would also appear to be limits on how far new entrants into the booked service market can penetrate into rank & hail, where taxis have (and, for reasons of safety and security, ought to have) a monopoly. Of course, if taxi organisations fail to respond to the challenge from new booking technologies, then this market, too, might be vulnerable to competition and potentially, to collapse.

The recommendations we have made in this report to liberalise the booked services sector (for all participants), and to reduce unnecessary overheads and regulatory costs on taxi organisations and vehicle owners, will provide the incumbents (taxis and hire cars) with an opportunity to compete more effectively. Nevertheless, the taskforce does recognise that there will be a difficult period of adjustment, as the industry transitions from the traditional regulatory regime and familiar business models, to a new environment.

Impacts for customers

The principal beneficiaries of the new regime will be point to point service users, who face the prospect of cheaper fares, more reliable and better quality services, and a wider range of innovative new service offerings.

Having a wider range of options was one of the key benefits that passengers identified in their submissions:

*"Let consumers choose which products are better and let the ride providers evolve to the most efficient, popular and profitable based on consumer choice."*⁴⁰⁵

400 "A Tale of Two Cities: Taxis vs Uber", *The Economist*, 15 August 2015.

401 Portland Bureau of Transportation, "Portland's Private For-Hire Transportation Market: Summary Report of the PFHT Innovation Pilot Program", October 2015, p.7.

402 Anonymous submission.

403 Anonymous submission.

404 NRMA Submission, p.9.

405 Anonymous submission.

The Office of the NSW Small Business Commissioner noted that “New market entrants can provide alternatives to consumers, inspire innovation and raise service standards across an industry”⁴⁰⁶

IPART also highlighted that the changes taking place are potentially of great advantage to service users: “The recent changes in the point to point transport industry are happening as a result of technological innovation and competition, and are delivering positive results for consumers.”⁴⁰⁷

With the taskforce’s recommendation to move to an outcome-based regulatory regime, the gains from technology which have already begun to be realised can be further harnessed. Technology has reduced the transaction costs involved in booking services through more efficient searching and information exchange. Platforms which match passengers to nearby drivers reduce waiting times as well as the costs of production. Innovations which track the booked vehicle in real time allow for more accurate estimates of waiting times, better management expectations and allow passengers to better employ their time.

Customer research conducted on behalf of the taskforce suggested that people greatly value the convenience of booking a taxi or ride sharing vehicle from an app on their phone.⁴⁰⁸ The key features which passengers value over the traditional experience of booking a taxi is the ease of booking, cashless payment, and a process for rating service quality.

Customers in outlying areas are also likely to benefit from these changes. Sydney is characterised by a large geographical size and low housing densities⁴⁰⁹ and, consequently, public transport will not be a viable transport option for many households.

Uber argued that they anticipate passengers using UberX to supplement their public transport use: “ridesharing provides an effective last mile for public transport. UberX services in Sydney are supplementing public transport where it is not available or where services are limited.”⁴¹⁰

However, passengers will be required to negotiate their way through a significantly different regulatory landscape. The public will need to be educated as to how ridesharing and other booked services work, and the role that booking and the prospect of repeat business play in ensuring high standards of safety are maintained. It will be important to explain how the new system of taxi fares operates, and it will be necessary to inform customers of the benefits of buying services based on reputation and brand, rather than just taking the first cab at the rank.

Impacts for drivers

In its consultations, the taskforce was repeatedly told by taxi drivers that they are suffering as a result of new entrants into the point to point market, and one submission predicted that:

“By legalising UberX you will definitely be putting downward pressure on taxi driver’ incomes as you won’t be able to cap or restrict the number of UberX vehicles on the road thus every single driver will suffer as more and more drivers compete for less work.”⁴¹¹

Others argued, however, that an increase in the supply of services will improve driver income. IPART said that:

“Keeping the supply of taxis (and therefore the demand for drivers) fixed, together with a growing number of drivers, suppresses driver earnings. On the other hand, increasing the number of taxis – or close substitutes such as hire cars or commercial rideshare – and therefore the demand for drivers would tend to improve the bargaining position of drivers.”⁴¹²

406 NSW Small Business Commissioner submission, p.1.

407 IPART submission, p.15.

408 SMPR for Transport for NSW, p.20.

409 Grattan Institute, The Cities We Need, Melbourne, 2010, p.7.

410 Uber submission, p.47.

411 Atra family submission, p.2.

412 IPART submission, p.3.

As one analyst has noted:

“... in the long run, the floor for taxi driver incomes is determined by the net wages for alternative occupations available to the low income taxi driver. In the case of a license expansion, the increased number of taxis will be empty unless the new license holders find drivers to fill those seats. This means more drivers must be attracted into the industry and downward pressure on the lease rates. In the long run, the lease rates must fall until the return to staying in the industry again matches what low income drivers can earn elsewhere. The long run result is that low income drivers break even.”⁴¹³

It is difficult to establish the level of earnings and the extent of any change therein. Most estimates are self-reported, and there are strong reasons to suspect that earnings are under-reported.⁴¹⁴ Research conducted in 2014 on behalf of IPART concluded that taxi drivers' hourly earnings are considerably below the Australian Minimum Wage, and this has potential implications for driver and passenger safety, as well as fundamental questions of social justice.⁴¹⁵ And, of course, inexperienced drivers will have been impacted more than others.

The NSW Taxi Council “does not agree ... with the results of the NSW IPART survey that suggests driver earnings are below minimum wages” and argues that there is already a significant shortage of drivers and that “therefore drivers have substantial market power and are negotiating much lower pay-in rates than the statutory maximum”.⁴¹⁶ The Taxi Council did not provide information on the residual amount of driver earnings after payments to operators and any other costs (such as fuel in the case of most Sydney drivers).

The 2014 CIE survey of taxi industry earnings indicates that in recent years, licence values and operators' earnings have declined by more than the reduction in revenues in the industry, while driver earnings have been quite stable.⁴¹⁷

An increase in the supply of cars for point to point transport suggests that the demand for drivers will increase, especially in peak periods when waiting times are greatest. This conclusion is reinforced by evidence from overseas that ridesharing has expanded the size of the point to point market – new services have stimulated new and latent demand.

There are few restrictions on entry for new drivers, large numbers of potential new entrants, particularly if training requirements are streamlined, and the skill requirements are modest. Drivers who enter or leave the industry in response to changing demand are likely to be those with less skill or experience, and in these circumstances, earnings for taxi drivers will be more sensitive to overall labour market conditions rather than the specific circumstances of the taxi industry.

If taxi drivers' earnings fall below the income of comparable positions, operators will experience difficulty obtaining drivers. The likely outcome will be a downward renegotiation of pay-ins for the use of taxis. There is evidence that this is already occurring and for some time, pay-ins have been below the maximums set by the Industrial Relations Commission.⁴¹⁸

More experienced drivers will continue to earn higher incomes. The value of specialist knowledge may have declined due to improved booking, dispatch, and navigation technologies. However, network managers advised us that drivers who have developed relationships with key clients and understand where and when the best fares are to be had bring in significantly better than average earnings.

Any improvement to drivers' circumstances will depend on how quickly pay-ins adjust to the changing market circumstances; operator and licence owner submissions and CIE surveys of industry indicate that these respond relatively quickly.

413 D Hara, “Taxi Regulation and Taxi Driver Income”, Victorian Taxi Inquiry, 2012, p.10.

414 D Hara, “Taxi Regulation and Taxi Driver Income”, Victorian Taxi Inquiry, 2012, pp.4–7.

415 CIE, *2014 Survey of taxi drivers and operators* – Final report, December 2014.

416 NSW Taxi Council submission, p.14.

417 CIE, *2014 Survey of Taxi Drivers and Operators*, IPART, p.6.

418 CIE, *2014 Survey of Taxi Drivers and Operators*, IPART, p.6

A feature of so-called ridesharing operations is that many new drivers are working on a part-time basis. Given the demand for additional services in peak periods and the relative ease of entry, this may weaken the negotiating power of existing drivers to some extent.

The taskforce expects that, overall, the liberalisation of the booking market will improve the negotiating power of taxi drivers, already evident in reports of drivers leaving their operators to work for Uber, and in the downward pressure on pay-in fees. Hourly earnings for drivers however will continue to be set in the broader labour market.

It should be noted that the increased opportunity for casual work was seen as desirable in a number of submissions. Carers NSW see ridesharing as a potential source of flexible employment for its members: “Carers NSW is also conscious that ridesharing services could potentially provide new employment opportunities for carers interested in flexible part time work.”⁴¹⁹

The taskforce heard from several Uber drivers, with the following being a sample of the views:

“As a driver Uber has become integral to my lifestyle and financial security. As a self-funded retiree I require a flexible manner to earn additional dollars to supplement our retirement savings. The flexibility allows me to support my children and grandchildren by being available to fetch and carry them to school and other activities so their parents can work full time. In the current financial climate the income I earn from Uber makes these retirement years possible without the need for financial support from the government. Unfortunately I am at an age where I found it impossible to find employment since retirement that had the flexibility of an Uber driver which delivered the income to supplement our retirement and made me once again feel useful.”⁴²⁰

“I taught secondary school for 15 years prior to joining Uber and while I transition into my new career, nursing, I am supporting my family with ride-sharing.”⁴²¹

“A few years ago I was made retrenched out of my Financial Controller position ... Uber has allowed me to remain able to run my practice and start building a new income stream – to not be a drain of the welfare budget but to be a useful member of society. Do not remove the one option that many (many many) people in my position have that allows them some earning capacity, some dignity, and reduces the strains on the welfare budget.”⁴²²

NRMA noted that regional areas may particularly benefit:

“In terms of supply of transport alternatives such as ridesharing, high rates of unemployment and underemployment and low start-up costs can potentially make operating a point to point transport service a viable source of income for many in regional NSW.”⁴²³

Impacts for taxi operators

The roles and responsibilities of taxi operators and their current business models have been substantially shaped by the available technology and the existing regulatory framework. We expect that these will significantly change in response to the revolution in booking, tracking and dispatch technologies, and the structural and regulatory changes recommended in this report.

The overall effect of these changes on operators is not clear. Increased competition in recent years may have resulted in a decline in operator margins. Surveys of driver and operator earnings have shown that when costs and earnings in the sector declined overall, operator earnings fell more quickly. Between 2011 and 2014, average revenues per taxi fell by 1.3 per cent and during this period, driver earnings increased marginally, licence lease costs fell by around seven per cent and operator earnings fell by 29 per cent.⁴²⁴ However, this finding should be treated with some caution: operator margins are thought to be quite thin, so that relatively small errors in estimating costs and earnings can have a large impact on margins.

419 Carers NSW Submission, p.3.

420 Anonymous submission.

421 Anonymous submission.

422 Anonymous submission.

423 NRMA Submission, p.14.

424 CIE, 2014 Survey of Taxi Drivers and Operators, IPART, p.2.

On the other hand, taxi operators will benefit from many of the recommendations in this report, such as the abolition of the requirement that they be affiliated with a network, reduction in the cost of leasing a licence arising from the conversion of perpetual licences, and a significant reduction in red tape. There is evidence of some change in Melbourne since reforms to the industry, with some large fleet operators joining forces to create a new network service provider in that city, which owns all its vehicles and provides driver training.⁴²⁵

We expect an increase in the number of owner/drivers, particularly in the booked market, but the regulatory obligations placed on taxi organisations and the enhanced value of a corporate brand, should create new opportunities for operators in the rank & hail market. New models will emerge, with some taxi operators becoming mini-networks in their own right, as in Melbourne, or capturing economies of scale and scope by collaborating with other operators.

However, for some operators adjustment is likely to be difficult. They will need time to understand the opportunities that the new regulatory framework offers and to renegotiate their existing contractual obligations. The Small Business Commissioner could play a role in supporting taxi operators with information and advice, and perhaps in other ways, through this period of significant change.

Impacts for taxi networks

Taxi networks provide centralised booking and dispatch services for their operators, offer brand and marketing services for their taxis, and supply bundled services to their members, such as leases of vehicles and licences, insurance and safety assurance systems. They own some licences or manage them on behalf of other owners, and particularly in smaller regional areas, they may also be the operator.

The regulatory changes proposed by the taskforce will have a substantial impact on the cooperatives and networks. As new service offerings emerge, customers will have a wider range of options, particularly for booked services. New entrants are exploiting new booking, tracking and payment technologies and innovation of this kind will continue. Drivers and vehicle owners will have greater choice, and networks will come under pressure to enhance and price their services competitively.

As described elsewhere in our report, some taxi networks are already responding by adopting new technologies and by significantly improving their service offerings to corporate and government customers. We expect that a great deal more adjustment will be required, but in Sydney, where the impact will be greatest, the networks have the scale and the management capacity to change.

Impacts for owners of taxi licences

Opening up the market for booked services, as well as the conversion of perpetual licences to transferable annual licences which are renewable up to nine times will have a significant impact on the owners of ordinary (or perpetual) taxi licences through a sudden decline in values.

The taskforce has formed the view that Government should provide transitional financial assistance to the owners of perpetual licences, based on equity and hardship grounds, the details of which are discussed below. Financial assistance to other industry participants is not recommended.

Profile of licence owners

Most taxi licence owners play no direct role in providing taxi services. They lease the licence to a taxi operator, in many cases through an intermediary, in return for an income stream. The payments from operators to licence owners depend on how profitable it is to operate the taxi. In this respect, a taxi licence is similar to a financial asset.

In recent years, licence values in Sydney have reached \$425,000 and higher in some regional locations. It is important to note that these licence values perform no useful function in the taxi industry. To the contrary, they represent a substantial overhead for taxi operators and add around 20 per cent to the cost of a fare, while contributing nothing to the delivery of better services. For those concerned with

⁴²⁵ <http://cabit.com.au/about-cabit/>

efficient and effective point to point services, there is no basis for retaining these inflated values., Among the existing holders of taxi licences, there is, of course, an understandable concern to protect (and to increase) the value of their investment.

The taskforce has heard from people who said that they purchased a taxi licence because they considered them to be a good investment. In one regional centre, we heard from a taxi operator who was advised by his accountant a decade ago, to acquire a taxi licence to build up his superannuation portfolio, and because the value of this licence had increased, he had recently purchased a second. A two-page spread on superannuation in a major Sydney newspaper in October 2015, carried an article about a couple who sold a number of other investments in 2006 in order to purchase three taxi licences.⁴²⁶

Others received licences, often at no or little cost, under a ballot or seniority system for military service or for long service as a taxi driver and have retained ownership to finance their retirement. In some instances, taxi licences have been passed down through several generations. Some taxi licences were awarded to the former owners of hire car licences when that sector was substantially deregulated in the early 2000s. In other cases, government gifted licences to taxi networks in an attempt to offset the cost of operating WATs.

In NSW, the overwhelming majority of licence holders are small investors owning one or two licences, but there are a number of large investors.

Table 3. Number of taxi licences held by owners

Number of licences held	Number of owners	Total licences
1	4098	4098
2	566	1132
3	162	486
4	73	292
5	24	120
6 or more	73	1157
Total number of licences		7285

Table 4. Ownership of licences by companies, individuals, networks and partnerships

Ownership	Number of licences
Company	1,214
Individual	4,245
Network	443
Partnership	1,383
Total	7,285

What gives taxi licences their value?

The value of a taxi licence reflects the scarcity created by the restriction on the number issued, and the lack of competition from other transport modes in the point to point market. As we note elsewhere in this report, there are sound policy reasons why government might want to manage the supply of vehicles engaged in the rank & hail market, however, this need not have resulted in high licence values that have developed in NSW (and in many other jurisdictions around the world).

426 "Taxi Plates Fuel Lifestyle", *Daily Telegraph*, 28 October 2015, p.10.

Government might have elected to issue affordable short-term licences, similar to the annual licences (i.e., annual with the option to renew for a further nine years) that have been issued in Sydney since 2010. Even if they were awarded for a long duration, government might have prevented them from being transferred, as it has done with the annual licences. And it might have managed supply much more closely, making sure that values did not rise above the CPI trend line for more than brief periods of time.

It is not just the management of supply in the rank & hail market which has created such exorbitant values, but the length of the licences, the potential for trade and the failure to anticipate changes in scarcity.

Proposed solution

The taskforce has recommended that the government take steps to reduce the value of taxi licences in NSW. Unless this occurs, it will be impossible for the taxi industry to take on the challenge posed by new entrants.

As described in chapter 7, the taskforce recommends that existing ordinary (or perpetual) taxi licences be converted to transferable annual licences that are renewable up to nine times. The value of taxi licences has already been falling because of an increase in licence numbers since 2010, and competition from hire cars and rideshare providers. Taxi operators have been accepting lower pay-ins from their drivers and negotiating lower lease fees with their licence owners. The regulatory changes recommended in this report will increase the pressure to reduce lease fees, and the conversion of perpetual licences to annual ones will further contribute to a fall in licence values.

It is for these reasons that we recommend that the government provide financial assistance to licence owners to facilitate the process of adjustment.

Possible basis for financial assistance

The starting point for some submissions was a presumption of full compensation, even though there was recognition that this may not be feasible and that some prioritisation or targeting may be required:

"The amount compensated should be the full value of a Sydney taxi licence as at April 2014 (when UberX entered the market). Preference should be given to those who have participated in the industry over a long period of time and possibly looking to retire. My father is such an example whereby he has been a taxi licence owner, operator and driver for over 30 years. He has spent that whole time paying down business loans only to see his investment now worth very little as he reaches retirement. He was not able to purchase a home due to his financial commitment to the taxi licenses he purchased... Without compensation and no superannuation he will be left with nothing and will need to survive off the government pension despite decades of hard work."⁴²⁷

Others argued that the changes in the industry and the reduction in the value of licences are part of the normal process of economic and technological change that affects many industries. IPART put this case, but also noted that the impacts of these changes may be felt more quickly if there is a concurrent removal of restrictions.

"The recent changes in the point to point transport industry are happening as a result of technological innovation and competition, and are delivering positive results for consumers. Other industries such as music, book and video retailing in particular, and brick-and-mortar retailing more generally, have been similarly affected. Incumbent players and traditional business models must adapt or go out of business ... If supply restrictions on licences are removed ... most incumbent drivers and operators in the taxi and hire car industries will be better off, or no worse off. However, taxi and hire car licences will drop significantly in value, faster than they would have by technological change alone, adversely impacting their owners."⁴²⁸

427 ATRA family submission, p.9.

428 IPART submission, p.15.

The NSW Taxi Council and the Hire Car Association argued that assistance was essential to help the sector adjust and ensure the changes were sustainable.

“... if the Government is of a mind to adjust the regulatory framework to accommodate the actions of this organisation, then it will need to help the NSW Taxi Industry to adjust. Any deregulation without corresponding and meaningful compensation for adjustment would be unacceptable to the industry due to the highly negative social and economic impacts on thousands of industry participants.”⁴²⁹

A substantial number of submissions supported assistance targeted on the basis of hardship or for those who bought taxi licences most recently. The Australian Taxi Driver Association proposed that:

“... some form of ‘hardship assistance’ be made available, on a case by case basis to Licence Owners of less than three plates within their family or corporate entities. Such assistance should take into account the financial advantages obtained by the past operation of the Plate, and its original cost. Where the Plate was obtained without cost, there should be no issues as to compensation. Where corporate entities or family holdings own three or more Plates, there should be no issues as to compensation.”

The views on “hardship” varied between submissions. The Taxi Driver Association’s proposal would exclude recipients (or their beneficiaries) of licences under the original seniority system or the transition arrangements for hire cars when hire cars were deregulated. Other submissions were particularly concerned about the impact on these licence owners.

There was also a difference in views about which losses the assistance should offset. Many submissions focused on the loss of capital value of the licences, while others were concerned with the loss of income.

“We do believe an industry adjustment package should be offered but only to the extent of assisting license owners who are dependent on the income generated by the license. We do not believe they should be compensated for the drop in the capital value of the license as they have been receiving an above market yield due to the sovereign risk attached to this investment class.”⁴³⁰

Industry adjustment

Australian governments have provided financial assistance to facilitate major structural adjustment in particular industries, based on the economic benefits that are expected to follow reform. These include primary industries such as the egg, dairy, fisheries and forestry, and parts of the manufacturing sector.

Financial assistance has been provided for the taxi industry in some Australian and international jurisdictions. In other places, including South Australia, New Zealand and various states in the USA, deregulation was pursued without assistance or compensation, despite substantial losses to existing taxi owners.

NSW egg industry

Until 1989, NSW egg producers operated under a quota system that controlled the number of hens they could keep. The Egg Board (later the Egg Corporation) controlled the wholesale price of eggs and supplied more than 90 per cent of lower value egg product sales and all export sales. The quotas were intended to control egg supply, but productivity improvements meant supply continue to greatly exceed demand.

At the regulated wholesale price, the Egg Corporation made a trading loss in the export and low value egg markets and recovered these losses through hen levies and the more profitable retail market. NSW consumers were paying excess prices for their eggs, to the advantage of producers.⁴³¹

⁴²⁹ NSW Taxi Council submission, p.7.

⁴³⁰ goCatch submission, p.6.

⁴³¹ A Strong, J Johnston, W Green and G Marshall, Estimating the Financial Impacts of Deregulation in the NSW Egg Industry, 34th Annual Conference of the Australian Agricultural Economics Society, 1990, p.8.

In 1989, the NSW Government removed the quotas on hen numbers and restrictions on prices. The obligation on the Egg Corporation to buy all eggs produced was removed and the corporation was formally corporatised and sold.

The Government provided assistance of \$15 per bird to producers with a quota. The total cost was \$61m, and was funded from the sale of assets. This assistance followed a commitment by the Minister that no legal producer would be disadvantaged by the changes. It was decided to provide the same level of assistance to all quota holders on simplicity, legal and equity grounds. An alternative, which was rejected, was to adjust the assistance for the period for which the quota was held and the past benefits received. The option of funding the payments from a levy was also rejected on simplicity and legal grounds.

An analysis of likely debt levels was undertaken in assessing the level of compensation. In addition to acquiring the quota, producers invested in substantial assets leading to concerns about the capacity to finance the associated debt with the expected decline in prices and volumes under deregulation. The modelling indicated that with assistance of \$15 per bird, only nine per cent of producers would face financial difficulty. This gave greater protection to small producers due to their smaller debt levels.

Dairy industry

For many years the farm-gate prices for milk were regulated and the market controlled and regulated through state-based marketing corporations. This supported high prices for producers and an unsustainable difference in prices for “market milk” and “manufactured milk”. In 2000 the sector was deregulated and the supply of milk opened up to competition.

Transitional assistance was provided in the form of:

- Income support for approximately three years to assist farmers to adjust. The total budget was \$1.6 billion and the support was based on the difference in prices under the new and old frameworks.
- Additional payments to those farmers most severely affected by the fall in dairy prices and discretionary payments to farmers whose eligibility for the income support component was adversely affected by an extraordinary event. The \$120 million budget was to be spent over eight years.

The assistance package was funded by a levy of 11 cents per litre on dairy products and the Dairy Assistance Authority was established to manage the assistance. In a review of the program the Audit Office commented that administration of the discretionary payments was complex.⁴³²

Motor vehicle manufacturing

The Productivity Commission estimates that over \$30 billion of assistance was provided over the period from 1997 to 2012 alone in the form of tariffs and subsidies to motor vehicle manufacturers in Australia.⁴³³ The initial objective was to build a sustainable, competitive vehicle manufacturing industry due to the wider benefits that a vehicle manufacturing sector was considered to offer the economy.

Ultimately the local industry’s scale and cost disadvantages in a global manufacturing sector meant that it was not feasible to sustain significant vehicle manufacturing in Australia. Assistance is to be phased down as the local manufacturing sector declines and an important part of the assistance is to help employees transition to new positions. The two components of this are:

- the Automotive Diversification Program to assist firms in the automotive supply and manufacturing sector find new markets
- the Automotive Industry Structural Adjustment Program to provide tailored employment assistance to help workers in the sector transition to new employment.

⁴³² ANOA, The Commonwealth’s Administration of the Dairy Adjustment Package, 2004, p.16.

⁴³³ Productivity Commission, Australia’s Automotive Manufacturing Industry Inquiry Report, 2014, p.11.

Considerations of equity

Apart from the economic benefits of structural adjustment assistance, there are questions of fairness, and different governments have weighed these equitable considerations in different ways.

The Victorian, the Northern Territory and Irish Governments all provided assistance following the deregulation of entry where previous controls had resulted in taxi licences acquiring substantial market value – as much as \$500,000 in Victoria. In Victoria and the Northern Territory, deregulation was a decision of government that reversed a long standing policy of restricting entry. In Ireland, it followed a High Court ruling that the limitation on entry in the interest of existing licence holders was not legally sustainable.

The Northern Territory Government compensated taxi licence owners for the market value of the licences prior to liberalisation of entry controls. In Darwin, \$95,000 was paid for each licence. The total budget for assistance of \$25 million was to be funded by an annual levy of \$16,000 on all licences for 7–8 years.⁴³⁴ This substantially reduced the expected benefits of the reform for taxi users in the short to medium term. These benefits were further reduced when a cap on licence numbers was reintroduced in 2001 and the levy was extended on an ongoing basis.

Instead of controlling the number of licences, since 2013 the Victorian government has set an annual lease fee (\$22,703 in 2015–16) at which licences are made available to eligible applicants. This places a floor under the value for existing licences, which sold for between \$260,000 and \$300,000 in the year to September 2015 (around 50–60% of the pre-reform values). In 2015, the Victorian Government established a hardship fund of \$4 million to provide assistance to owners of perpetual taxi licences facing severe financial hardship. This is only a small proportion of the combined capital loss of over \$600 million for the 3,100 unrestricted licences.⁴³⁵

Ireland established a Hardship Panel to advise on the criteria for eligibility, the levels of assistance and to administer the payments. The panel established categories of hardship and levels of assistance based on a range of factors.

Table 5. Hardship assessment criteria Ireland

Hardship claim	Level of assistance
Marital status – widowed or separated from initial licence holder with licence awarded in settlement	€10,000–€15,000
Age – either over 65 years old or 55 years old with no alternative pension plan	€13,000
Higher costs from operating a WAT	€3,000
Licence was secured by a mortgage and/or large debt outstanding	12–15% of loan outstanding up to €12,000
Impact on income from holding multiple licences	nil
Impact on total income and hours worked from increased competition	nil
Disabilities or other special needs	€13,000

The total budget for the assistance was €12.6m; the maximum level of assistance of €15,000 was 15 per cent of the estimated value of the licences in 2000 of €100,000.

⁴³⁴ Jaguar Consulting, Overview and analysis of possible transitional strategies: Moving from a tightly restricted supply model to an open entry taxi industry, Paper prepared for the Victorian Taxi Industry Inquiry October 2011, p.11.

⁴³⁵ Based on reduction in average value from \$500,000 to \$260,000–\$300,000.

What is fair and reasonable?

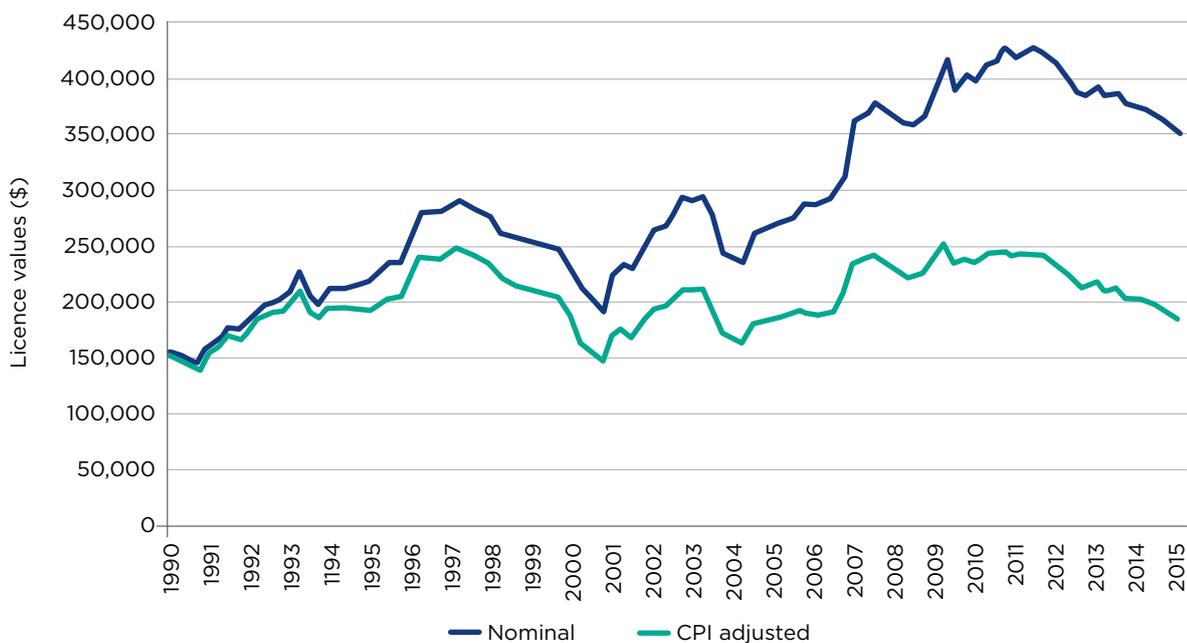
In weighing up what kind of structural assistance might be provided, the taskforce has considered a wide range of different factors, some of which support an argument for assistance and some of which argue against. We are strongly of the view that government should provide some structural assistance funding to the majority of licence holders, with an additional hardship package for certain classes of licence holder who are likely to be severely disadvantaged in the short or long term.

Because this issue is founded in equity rather than economics, and because there is such a wide range of factors to be weighed, for and against, we concluded that it would be inappropriate for us to make specific recommendations as to what funding should be made available. Rather, we have unpacked the issues that we believe need to be taken into account as government formulates a position.

Policy risk

Information about taxi licence values over time is based on data that are readily available to the general public on the Transport for NSW website.⁴³⁶ It shows that on three occasions since 1990, price has come close to the CPI trend line through the release of more licences. Most recently, this has occurred since 2012, when IPART began advising the Government on the number of licences to be released in Sydney each year. IPART's work used the assumption that a 25 per cent reduction in lease values was a reasonable impact on licence owners.

Figure 13. Average transfer values for Sydney ordinary unrestricted taxi licences



In today's dollars, the value of a taxi licence, based on the long-term trend, is a little more than \$300,000. It is difficult to understand why any investor should expect to receive anything more than this for their licence. Those who bought at the top of the market – around \$425,000 – were engaged in a highly speculative venture, government should not take such high prices into account.

436 <http://www.transport.nsw.gov.au/operators/taxis/taxi-licences/background>

Another indication that investors factored in the policy risk is the relatively high rate of return on the taxi licences, as the NSW Taxi Council observed in its submission to the taskforce:

“Investment in taxi licences in NSW, either as an owner operator or a third party investor, is a discretionary activity based on the purchasers’ assessment of risk and return. As identified in a number of submissions to IPART, an investment in a taxi licence carries a range of risks that are not necessarily relevant to other financial instruments. In this regard, a taxi licence carries a risk premium that responds to this environment, and the returns that have occurred as consequence reflect this.”⁴³⁷

Investment in taxi licences has generated a real return of around 7 per cent over the long term, even after allowing for a decline in the value of taxi licences since 2012.⁴³⁸

There are close parallels between investment in a taxi licence and investment in a rental property: both have provided the opportunity for a stable annual return and a capital gain. However, by comparison, real long-term returns on rental properties in the Australian market have averaged between 3.6 and 4.7 per cent.⁴³⁹

There have been clear signals over the last 25 years that the restricted supply of taxi licences was subject to review and could not be assumed to continue, including:

- deregulation of the taxi industry in a number of other states and countries from the 1970s
- change to the legislation in 1990 which provided for additional licences to be issued at market rates
- the requirement to review restrictions on entry under the National Competition Policy Agreement
- IPART’s 1999 review which recommended a gradual increase in the number of taxi licences and questioned the role of entry restrictions in the long term
- deregulation of the hire car sector from 2001
- legislative amendments in 2009 that included the objective of “reducing barriers to entry and encouraging competition”
- IPART’s assessment that a reduction in licence lease costs of 25% over five years is reasonable, as part of its reviews of the number of taxi licences to be released in Sydney in recent years.⁴⁴⁰

Given this, a prudent investor should have anticipated the liberalisation of entry restrictions over time and, as noted above, this appears to be reflected in expected returns.

Technological and market risk

In common with many other industries, the point to point sector has long been at risk of technological disruption. This occurred when telephones were first introduced, and again in the late 1980s and early 1990s when mobile phones were widely adopted. Cooperatives and networks spent a great deal of money to adjust, but they survived and, indeed, prospered.

It is likely that some of the decline in the value of NSW taxi licences since 2011 has occurred because of the innovation taking place in booking, tracking and payment technologies, and would have happened even if ridesharing had not emerged. The advent of driverless cars is likely to have an even greater impact on the point to point industry.

⁴³⁷ Taxi Council submission, p.37.

⁴³⁸ Licences have maintained their real value (i.e., increased in line with inflation) and provided an annual return of around 7 per cent on this constant real value of the licence.

⁴³⁹ “If past returns are taken as a guide to future returns, expectations based on long term returns would be for a real return of 3.6%. If investors took a shorter term perspective only [e.g., 1986-2005] ... expectations might be as high as 4.7%.” Nigel Stapledon, Long Term Housing Prices in Australia: Some Economic Perspectives, PhD Dissertation, UNSW, September 2007, p.162.

⁴⁴⁰ IPART, Annual Taxi Licence Release for 2013-14 Draft Report, p.38.

Technological disruption has occurred several times in the past, without the benefit of adjustment funding, and is likely to occur with even greater frequency in the future. It is difficult to see why government should provide financial assistance for any decline in value, short- or long-term, that may flow from such disruption. The taskforce recognises the difficulty of identifying what the scale of this impact might have been.

In part, this is because of a second form of disruption – the emergence of a new business model, commonly known as ridesharing, that has come to be associated in this country (and in many other parts of the world) with Uber. Uber’s ridesharing service, known in Australia as UberX, currently involves its drivers in operating outside the law, and there has been controversy over the extent to which Uber and its drivers are paying and should pay GST and income tax in this country. Consequently, the conversation over ridesharing has focused on questions of legal and social accountability that, had governments been able to respond more quickly, may not have become such an issue.

The taskforce is aware that two other organisations, Lyft (the inventor of the ridesharing concept) and the NRMA, have previously approached the NSW Government investigating the possibility of introducing this model into NSW. Because ridesharing was not lawful at the time, these proposals did not immediately proceed, but it is important that we keep them in mind since they demonstrate that the taxi industry’s traditional business model was already coming under challenge prior to the advent of UberX.

In general, government should not undertake to protect particular industries from changes in the market. Apart from the unfairness for those who are not provided with assistance, it may create a precedent which will make future reforms in this and other sectors more difficult. Most obviously, it will do this by creating an additional fiscal cost for future reforms, but it may also encourage people to respond strategically to take advantage of anticipated adjustment funding, and thus further increase the cost of such reforms.

For example, it is arguable that the provision of compensation to NSW hire car licence owners when entry was liberalised in the early 2000s reinforced an expectation of compensation for taxi licences, and that this has been factored into the price. In the absence of this precedent, investors would have weighed the policy risk more carefully.

As noted above, Australian governments have sometimes provided transitional funding to assist in the structural adjustment of certain industries, in the belief that the long-term gains to the economy as a whole were much greater than the short-term costs.

Investors who acquired more than one taxi licence were exposing themselves to additional market risk. Those responsible for self-managed superannuation funds are generally advised to diversify their investments, adopting a portfolio approach with a mix of capital and interest-only risk, and shifting the balance between various asset classes as the performance of the different markets change.

A number of submissions made the point that they could not see why taxpayers should underwrite taxi licence investors’ risk, which was willingly assumed.

“There’s a lot of taxi industry talk about people making investments in the industry when they bought a taxi licence. By definition investment carries risk. This is mainly the risk that someone will come along with a product that your customers prefer to yours. Investors in changing industries who failed to see change coming and adapt quickly enough generally get burned. There is no case for NSW taxpayers to be asked to guarantee the ‘investments’ in taxi licences.”⁴⁴¹

Residual value

Taxi licences will retain a significant residual value because of the peculiar characteristics of the rank & hail market. As noted earlier in the report, the taskforce has formed the view that this market is a public transport system which depends for its ongoing operation on the ready availability of cars. If there are not enough taxis (either because of insufficient licences or a surfeit that results in economic

441 John David submission, p.3.

unsustainability), the system as a whole may fail. Difficult as it may be to ascertain the appropriate number of licences, particularly in a service that is characterised by peaks and troughs in demand, government is left with the ongoing responsibility for managing supply.

We have recommended that, for at least the next four years, there should be no increase in the number of taxi licences in Sydney. It is possible that fares for rank & hail will be higher than comparable booked fares, in part because of the investment in security equipment required given the anonymity of rank & hail and in part because of the additional costs associated with a model that offers ready availability.

It is difficult at this stage to estimate what that residual value may be. In New York, the value of taxi medallions has fallen by 25–30 per cent since mid-2014, although this has been from record highs that followed a period of rapid growth from late 2012.⁴⁴² In Chicago, another city for which detailed numbers are available, the decline since mid-2014 has been 35 or 60 per cent, depending on which measurement is used, but again, this followed unprecedented escalation since 2007.⁴⁴³

What is clear is that taxi licences are likely to have some residual value, and this needs to be taken into account in the design of any adjustment funding scheme. The conversion of perpetual licences to transferable annual licences renewable for a further nine years, and the ongoing auction of existing annual licences that have been surrendered, will quickly establish that residual value, although there is likely to be an initial period of uncertainty.

Capital value

In considering what value might be used as the basis for calculating financial assistance, one option might be to take into account whether the licence holder has recovered the purchase price of their licence. Under this approach the amount of assistance would depend on the date of purchase and licence owners who acquired their licence in earlier years would receive no compensation. A hardship fund could deal with elderly licence owners, or those close to retirement, who would unduly suffer under such an approach.

However, this ignores the fact that many licence owners invested in this particular financial instrument as a capital asset, and it fails to account for the manner in which they came into possession of their licences.

The original policy was intended to create a benefit for long-term drivers who were the original recipients of the licences, and in some cases, the licence may still be owned by the original recipient, their spouse, or other beneficiaries. In other cases the licence will have been sold to individual investors or a company.

The current owner may not have been the main beneficiary. Some may have bought the licence 25 years or more ago and earned a generous income. In other cases, the current owner may have bought the licence quite recently and the benefit of the value was captured by the previous owner.

We are also cognisant that at different times in the past, governments have created a reasonable expectation that taxi licences did have a capital value and that any changes would be phased in with the likelihood of some assistance in the process of adjustment:

- when entry to the hire car sector was partially deregulated from 2001, existing hire car licence holders were given equity in a new taxi licence equal to the prior value of their hire car licence
- when the supply of taxi licences was increased before the 2000 Olympics, the Government auctioned perpetual licences rather than issue short-term licences
- the stated objectives for taxi regulation in the 2009 amendments included “balancing the need for a more affordable means of entry with the need to avoid unreasonable impacts” on existing licence holders
- perpetual licences outside Sydney are still able to be bought from the Government at auction, and
- the government has not fully implemented IPART’s recommendations since 2012 to increase supply.

⁴⁴² http://www.nyc.gov/html/tlc/html/about/medallion_transfers.shtml

⁴⁴³ https://www.cityofchicago.org/city/en/depts/bacp/supp_info/medallion_owner_information.html

While licence holders should have been aware of the significant policy risks associated with their investment in a taxi licence, we consider that it would be unfair on them if government did not recognise that it contributed to the confusion that surrounded their status. At the very least, based on past experience, they might have expected that any regulatory changes would be introduced gradually.

In the current circumstances, gradual transition is not an option, but we do believe that in weighing up the question of adjustment assistance, the government should take into account the impact of converting perpetual licences to annual licences with the right to nine years of renewal. It might also consider employing a mixed approach to adjustment funding based on the anticipated decline in capital value, recoupment of investment costs and hardship assistance.

Hardship assistance

General adjustment assistance is not meant to fully offset the changes in capital values. Rather, it seeks to reduce the impact for a period. However, these changes will cause greater hardship for some than for others, especially where the licence owner:

- is retired (or close to retirement) and relies (or will rely) upon the licence/s as their primary source of post-retirement income
- has a high level of debt, possibly secured by a mortgage on their home, and may not be able to service the debt from future income from the licences or other income sources.

For this reason, the taskforce recommends that general assistance should be supplemented by a hardship fund. A fund modelled on the approach adopted in Ireland could address this need. It will need clear objectives, a set budget, should be expended within a defined timeframe and be administered by an independent committee or panel. The committee could establish the likely level and incidence of hardship, provide guidelines for the provision of hardship assistance, assess applications and determine the assistance to be provided.

Sources of funding for adjustment assistance

It is not for the taskforce to recommend how any such assistance should be funded, whether through the consolidated fund (so that the taxpayers of NSW bear the cost) and/or through some form of levy on the industry (so that the direct beneficiaries of reform bear the cost). We would suggest, however, that any such levy should apply to all journeys undertaken using point to point transport, and not merely those undertaken by taxi users. Those who are benefiting from regulatory reform should help to bear the costs of adjustment.

Other forms of transition support

At a number of places throughout this report, we have argued that assistance (of various forms) should be provided by government, to assist consumers and industry participants in making the transition to the new regime. Although it comes at the very end of the report, we want to stress that this is not a residual issue. To the contrary, it is a basic precondition of a successful transition from a heavily regulated system to one that demands significantly more innovation from industry participants and places a great deal more responsibility on them.

Customers

In the interests of passenger safety it is vital that government undertakes an education campaign to explain the new arrangements. People who have only ever used a taxi service will suddenly be allowed to access ridesharing platforms and other booked service providers that rely on the transparency of booking and tracking technologies to ensure safety and security. Many of these vehicles will resemble a private passenger vehicle. If passengers fail to understand the rules of ridesharing or other regulated booked service providers, they may be induced to get into a car with a complete stranger. The personal risks involved in such circumstances are apparent.

It will be necessary to inform the travelling public how the new arrangements for taxi fares will work, and they will need to be educated about the benefits of choosing a taxi based on brand rather than taking the first cab at the rank, as the social norm of “first come, first served” appears to dictate.

Operators

We have commented on the significant opportunities for taxi operators in the new regulatory environment, and the challenges they will likely face in the process of transition. Taxi operators are small businesses, and there is a strong case for government assistance to help them understand the new regime and to manage the adjustment from the old system to the new.

There would seem to be a major role for the Small Business Commissioner to assist taxi operators in making this transition.

Appendix 1 – The taskforce’s Terms of Reference

Context

The way that customers access the point to point transport market, and the competitive forces within it, have changed over the past decade and a half. The taxi industry in NSW is under increasing pressure from these changes, including the deregulation of hire cars over a number of years, the increasing prevalence of courtesy buses and the funding of community transport, particularly in regional areas.

The high regulatory costs the taxi industry face compared to its competitors, combined with new business models in the market mean that the current taxi industry model will struggle in the long run, if changes are not made to create a level playing field and ensure a viable and sustainable future.

In addition, the widespread availability of mobile devices with GPS capability and 4G networks in Australia has led to innovation in the delivery of passenger transport. In recognition of the customer benefits of this technology, the Government has already moved to permit independent taxi booking apps, which allow customers to book a licensed taxi without having to contact an established taxi network.

However this technology has also led to participation in the market by people using their own private vehicle to provide commercial passenger services, known as ridesharing.

Ridesharing services are operating contrary to the *Passenger Transport Act 1990* which requires that services provided to the public for a fare or other consideration must be provided by an accredited operator, and that the driver of the vehicle must hold an appropriate driver authority. In the case of services provided in small passenger vehicles, the service must be provided in a licensed taxi or hire car.

While enforcement action is being taken by Roads and Maritime Services, participation in this market appears to be growing quickly. In the first year of operation, a ridesharing platform provider claims it has close to 2,500 rideshare drivers, this compares to around 18,000 taxi drivers in Sydney, and around 24,000 state-wide.

This raises a range of issues for government, particularly in relation to the safety of customers. The NSW Government has established a taskforce to review issues relating to the impact of technological change on the regulation of point to point transport and to provide advice to the Government on a way forward.

Terms of Reference

In light of the impact of technological change on the point to point transport market, the inquiry is to consider whether there should be any change to the regulatory framework in NSW, with the aim of maximising customer outcomes and economic productivity.

The inquiry should consider and make recommendations to the Minister for Transport and Infrastructure covering the following areas:

- the safety and security of customers and drivers
- the sustainability of commercial passenger transport
- economic productivity, consumer protection and the availability of appropriate services for people with a disability and other groups facing transport disadvantage
- efficient and effective administration and enforcement of passenger transport legislation and minimising the regulatory burden on industry
- the impact on existing investment in the industry, and possible mechanisms to deliver an industry adjustment package, if necessary
- any other relevant matters

The inquiry will report to the Minister for Transport and Infrastructure by October 2015.

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