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## **REGULATION IN THE TAXI INDUSTRY**

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## **ABSTRACT**

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This paper examines some of the economic reasons for price and entry regulation in the taxi industry and presents the legal framework under which taxis and hire cars are regulated in England and Wales outside London. It is argued that the current law is defective and should be amended to incorporate explicitly the inter-relationship between fares and vehicle numbers such that the regulators have the discretion to choose between a high price/high availability service and a low price/low availability service.

*KEY-WORDS: Taxis and hire cars; economic regulation; taxi licensing law*

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# REGULATION IN THE TAXI INDUSTRY

## 1. INTRODUCTION

### 1.1 PURPOSES OF REGULATION

The taxi industry has a long history of regulation. As early as 1635, hackney carriages in London and Westminster were restricted as to what they could and could not do because they congested the streets, and the number of vehicles was limited "to restrain the excessive and superfluous use of coaches". The scope of regulation continued apace over the years, being largely concerned with public order and protection rather than the economics of the industry. In recent years however, economists have turned their attention to the taxi industry. The result has been to establish the optimal economic performance of the trade as a purpose of regulation, alongside public safety, consumer protection and congestion management. Each of these involves the regulation of different aspects of the trade as outlined below.

Public safety involves protecting the consumer and other road users in matters concerning the physical safety and suitability of the vehicle. It implies regulation of vehicle standards (such as size, age, road-worthiness checks, identification) and driver standards ("fit and proper person").

Consumer protection is concerned with preventing operators in a strong bargaining position from exploiting weak consumers. For example, a cab driver with a vacant cab and no other vehicle in sight could, for a given journey, charge more than for an identical trip where the consumer had a choice of cabs. Or, if fares are regulated to prevent this happening, the driver could refuse a particular hiring because it was not sufficiently lucrative, having a lower than average chance of a balancing return hiring. The appropriate regulatory measures in these circumstances are compulsory metering and the setting of maximum fares and/or fare registration plus the advertisement of the fare on the side of the cab; the licensing of drivers and the plating of cabs; and compellability.

Congestion. There may be wider traffic management reasons for wanting to regulate taxis. For example, in a congested town centre it may be useful to prohibit cruising and impose return to rank rules. This requires a rank designation policy which can cope with the number of cabs and possibly a restriction on the number of licences issued.

Economic performance. There are a number of feasible price/service level combinations which could be sustained in a given taxi industry, but it is indeterminate as to whether the market will attain the best one. Regulators may want to control maximum fares, cab numbers and taxi ranks in order to be able to push the market towards the best state.

Our work at ITS has been largely concerned with the economic performance of the trade, in particular how to define the best price/service level combination and the regulations necessary to achieve that outcome.

### 1.2 DIMENSIONS OF REGULATION IN THE TAXI MARKET

There are three important elements of regulation, namely the conferment of monopoly rights, the imposition of entry conditions and the control of fares. The monopoly power granted to taxicabs is the exclusive right to ply for hire. Although (in England and Wales at least) this has no legally water-tight definition, it is usually understood as the right to search physically for business in the

vehicle within a defined area, either at appointed places ("ranks") or on-street. In order to exclude vehicles not permitted to ply for hire, it is necessary for legitimate vehicles to be readily identified. This is often a condition imposed by a local authority, for example a requirement to use a particular distinctive vehicle or livery. Other entry conditions aimed at protecting the consumer include regulations limiting the age of vehicles used, insistence that drivers have a thorough knowledge of the area, or technical vehicle specifications. The effect of these quality regulations is to raise costs and therefore, other things being equal, to raise the prices faced by consumers, although there is the compensation of a higher standard of service. They also restrict the choice available to the consumer, removing his option of, say, a cheaper but smaller cab, or a cheaper but less knowledgeable driver.

Another condition on entry commonly applied is some form of quantity control, usually a restriction on the total number of licensed vehicles, or potentially a limit on the number of firms allowed to operate. If the latter involved the grant of an exclusive franchise to one operator, then that operator would be able to use his monopoly power to select the most profitable number of cabs. This was close to being the case in Chicago in the 1960s. In the former case, the introduction of a "medallion" system, so called because of the practice of issuing some form of identification to authorised vehicles, will have no effect on behaviour if the limit on the number of medallions (if limit there be) is set above the number of people prepared to operate them. A binding entry constraint, though, can be expected, other things being equal, to raise prices and reduce quantities below those which would otherwise obtain.

Fares control can take two forms, namely specification of the level of fares and regulations concerning the fares structure. Control of the level of fares can range from laying down the maximum permissible fare or setting a minimum fare to specifying the actual fare which must be charged. Considering the case of the administered fare, if it is set too low, we would expect firms to leave the industry. If it is set too high, and demand is price inelastic, we would expect industry profits to rise and therefore either the number of cabs to increase or, if there is a limit on the number of licences, a scarcity rent to accrue to the holders of licences. Control of the fares structure governs such things as variability of fares throughout the day, the relationship between time spent and distance travelled, and extra charges for multiple occupancy or luggage.

In England and Wales, where local councils must license taxi operations, the result of the above is that an authority can pursue one of four policies:

- (a) no fare regulation, no entry restriction (market solution)
- (b) no fare regulation, entry restriction
- (c) fare regulation, no entry restriction
- (d) fare regulation, entry restriction.

## **2.THE LEGAL FRAMEWORK.**

### **2.1THE TOWN POLICE CLAUSES ACT, 1847**

As mentioned earlier, hackney carriage licensing began in London in 1635, evolving over the next two centuries and culminating in the London Hackney Carriage Act, 1831 (1 & 2 William 4 c.22) which codified many of the previous regulations and provided the first comprehensive regulation of paratransit services. This paper, however, is primarily concerned with the regulation of taxis in England and Wales outside the Metropolitan Police Area (and its fore-runners), and similarly excluding Scotland and the north of Ireland. In these cases, taxi licensing is carried out under

different statutes, and different regulations are (and have been) in use. For the areas under investigation in this paper, the possibility of hackney carriage licensing originated with section 37 of the Town Police Clauses Act, 1847 (10 & 11 Vict. c.89).

"The Commissioners may from Time to Time license to ply for hire....such Number of Hackney Coaches or Carriages....as They think fit."

It is important to note that the powers contained in the 1847 Act were permissive, there being no obligation on the Commissioners (and later the relevant local authority) to license taxis. Also of interest is the restriction on numbers which the Commissioners could impose as they thought fit. This has been the subject of much controversy in recent years; although originally seen as a public order issue, it has become part of the debate surrounding economic regulation, and must now be seen as primarily an economic argument.

Essentially, sections 37 to 68 of the 1847 Act laid the foundation for taxi licensing throughout England and Wales except in the Metropolis. In a few cases, a taxi licensing regime was established under a local Act - this was the case in just five districts in 1985 (Coe (1986)). Under the terms of the 1847 Act, in an area where licensing existed, it was made illegal for an unlicensed vehicle to ply for hire. "Unlicensed" included a licensed vehicle which failed to display a licence plate in the stipulated manner. Under section 53 of the Act, an obligation was placed on the driver of a taxi which was plying for hire to accept any request to drive to a destination within the prescribed distance, failure to do so without reasonable excuse being an offence. Of itself, this is of little significance, but in conjunction with other aspects of regulation introduced by the Act, especially price control, it has important economic effects which are considered in some detail by Gallick and Sisk (1987). Although section 68 (below) permits the "fixing" of fares for distance, section 54 of the Act implies this is the establishment of maximum fares which can not legally be exceeded, since driver and passenger can agree a fare less than the allowed rate. Initially, the regulated fare applied only for journeys wholly within the prescribed distance; it is now within the discretion of the authority to make the fares apply for trips of any distance.

Section 68, the last in the part of the Act dealing with hackney carriages, permitted the Commissioners to make Bye-laws for the following purposes:

- (i)"For regulating the conduct of the Proprietors and Drivers of Hackney Carriages plying for hire within the prescribed Distance in their several Employment, and determining whether such Drivers shall wear any and what Badges, and for regulating the Hours within which they may exercise their Calling.
- (ii)"For regulating the Manner in which the Number of each Carriage, corresponding with the Number of its Licence, shall be displayed.
- (iii)"For regulating the Number of Persons to be carried by such Hackney Carriages and in what Manner such Number is to be shown on such Carriage, and what Number of Horses or other Animals is to draw the same, and the placing of Check Strings to the Carriages, and the holding of the same by Drivers, and how such hackney Carriages are to be furnished or provided.
- (iv)"For fixing the Stands of such Hackney Carriages and the Distance to which they may

be compelled to take Passengers not exceeding the prescribed Distance.

(v)"For fixing the Rates or Fares, as well for Time as Distance, to be paid for such Hackney Carriages within the prescribed distance, and for securing the due Publication of such Fares.

(vi)"For securing the safe Custody and Re-delivery of any Property accidentally left in Hackney Carriages, and fixing the Charges in respect thereof."

These, then, are the essentials of taxi licensing which applied until the enforcement of the Transport Act, 1985, namely: regulating what taxis (i) and drivers (iii) should look like (up to a point); the establishment of ranks (iv); the regulation of fares (for distance and time) and their display (v); regulating the size of taxis (iii) (including, with the advent of motorised vehicles, engine capacity). All fall into one of the different aspects of regulation outlined earlier, namely price regulation, quantity regulation or quality regulation, although the objectives of each regulation are not necessarily clear. In practice, not all licensing authorities had regulations for each aspect of taxi operation, and regulations differed from area to area. For example, 85% of those district councils which licensed taxis in Spring 1985 had some restriction on vehicle type, but only 27 out of those 267 specified that the Metropolitan Conditions of Fitness be met (Coe and Jackson, 1985). Similarly, in 1988, 5 districts which limited entry to the hackney carriage sector chose not to regulate the fares which could be charged.

In London, hackney carriage licensing is carried out by the Metropolitan Police largely under the powers of the 1869 Metropolitan Public Carriage Act. By and large, the regulations cover the same issues; but an important difference is that a hackney carriage vehicle licence must be granted to any suitable applicant, there being no discretion granted to the Deputy Commissioner to refuse the issue of a licence for the purpose of limiting the number of hackney carriages. It is both necessary and sufficient for the Police to be satisfied as to the applicant's good character and financial probity, and that the vehicle meets the specified conditions. Prospective drivers must likewise be of good character and fit to act as a hackney driver; this latter implies "knowledge" of London. Fares in London are set by the Home Secretary.

The power of local authorities to make Bye-laws with regard to fares has important economic implications. In particular, it appears that, although the section 54 of the 1847 Act implies the allowed fares are maxima, the power given to fix fares under bye-laws suggests a council can choose to stipulate that the fares so fixed are both maximum and minimum fares. This is a moot point, with some districts insisting that the regulated fare is the fare which must be charged and others maintaining that the fares are maxima. Gallick and Sisk (1987) argue that under the average-pricing regime which is a feature of the industry, with trips of identical distance and duration but to different destinations within the prescribed distance being set at the same price in spite of the potentially differing costs, the *de jure* maximum price will be the *de facto* ruling price as long as the price regulation is complemented by a compellability requirement and minimum vehicle standard requirement and there is no restriction on the number of licences issued. This is because of the necessity to cross-subsidise trips to less-profitable destinations (that is, those with a low chance of a return hiring) from trips to more profitable destinations (those with a higher chance of a return hiring); there is no incentive to accept a hiring at a fare less than the average cost. There are also features of the organisation of the trade, notably first-in first-out queuing discipline at ranks, which discourage price competition. Under a restricted licence system, where excess profits are being

made by licence holders, institutional barriers to price competition may result in a higher than optimal price with lower ridership and a non-welfare-maximising solution; if price competition is feasible, then the maximum fare may not be the *de facto* fare charged.

## **2.2 THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1976**

Part II of this Act (1976 c.57) clarified and updated the law on taxi licensing and also extended the licensing regulations to private hire cars. Private hire cars are, like hackney carriages, small vehicles available for hire by the public; but, since they are not hackney carriages, they are not permitted to ply for hire on the street and must be booked by customers through an office or agency.

Under section 45 of the Act, a district council in whose area or part of whose area the Act of 1847 was in force, was able to resolve that the Act of 1976 apply in that area or part of area. In an area where this part of the Act was adopted, three aspects of private hire operation were licensed; vehicles, drivers and operators. The vehicle regulations for private hire vehicles were broadly similar to those for hackney carriages, the main difference being that a council could not refuse to grant a licence to a vehicle which met the conditions (whereas for hackney carriages, local authorities at this time retained the discretion to refuse the grant of a licence for the purpose of limiting the number of hackney carriages). Operators were required to be licensed whether the firm concerned was single owner-driver or a large operator; there were, however, no powers for local authorities to license operators of hackney carriages (it was thought; *R. v Franklin and Carter*, the "Bromsgrove case" suggests otherwise). Concerning drivers, a private hire driver's licence was only to be granted if the council was satisfied that the applicant was a fit and proper person to hold such licence (section 51). Similarly, a council would not be able to grant a licence to drive a hackney carriage (under section 46 of the Act of 1847) unless satisfied that the applicant was a fit and proper person (section 59). It would seem, in the absence of a specific reference to such, that the "knowledge" test commonly applied by local authorities is part of the procedure for satisfying themselves that an applicant is a fit and proper person.

Sections 65 to 67, dealing with fares, applies to hackney carriages only, local authorities having no power to set fares for private hire vehicles. Hackney carriages undertaking private hire work may not charge more than the maximum permitted hackney rate, whereas private hire cars can charge what they see fit if no fare has been agreed before the commencement of the hiring.

## **2.3 THE TRANSPORT ACT, 1985**

The portion of this Act dealing with taxis and hire cars falls into two distinct parts, the first dealing with the carriage of passengers for hire and reward at separate fares ("shared taxis") and the operation of taxis as Public Service Vehicles (on a restricted licence) and the second concerning taxi licensing in general, and control of numbers in particular.

### Shared taxis

A district council is obliged to make a shared taxi scheme if the holders of 10% of the licences issued by that licensing authority make a written request for them to do so. The local authority must also designate the "authorised places" from which the scheme operates. Where a shared taxi scheme exists, where the taxi is licensed and where the hiring meets the terms of the scheme, (that is, it is

made at an authorised place, a necessary but not sufficient condition for which is that all the persons hiring it are there present (section 10, paragraph 9), such as a shared taxi rank), then a taxi may be used for hire and reward at separate fares without thereby becoming a PSV or ceasing to be a taxi. Section 11 deals with advance bookings; if passengers or prospective passengers agree to share the vehicle, then it may be used for the carriage of passengers for hire and reward at separate fares without thereby becoming a PSV or ceasing to be a taxi or hire car. A local authority may set fares for the immediate hiring of hackney carriages when they are shared but may not do so for hire cars or hackney carriages booked in advance at separate fares.

#### Use of taxis to provide local services

Section 12 of the 1985 Transport Act deals with the case of taxis providing local services. The holder of a taxi licence may apply to the Traffic Commissioner for a restricted PSV Operators' Licence. Every vehicle operated under the terms of the operators' licence must be a licensed taxi. The Local Services (Operation by Taxis) Regulations, 1986, lay down which parts of the licensing law apply. Essentially, all the taxi licensing provisions of the Local Government (Miscellaneous Provisions) Act apply, except those concerned with taxi ranks, fare regulation, compellability and the "shortest route" requirement. When used to provide a local service under section 12, a taxi becomes a PSV and is subject to most of the regulations of the Public Passenger Vehicles Act, 1981, save that operating standards remain the responsibility of the taxi licensing authority. Under section 12(8), a licensed taxi operated on a special PSV licence need not be a full-time PSV. It may ply for hire, although only in the area for which it is licensed as a taxi. During the course of its operation as a PSV, it must have at least one stopping place in the area for which it is licensed as a taxi. (This does not prevent it from having stopping places in other taxi licensing areas.) Fares may not be controlled by the local authorities.

#### Alterations to taxi licensing regulations

There are two key points: the extension of the application of the 1847 Act (section 15); and the removal of quantity control (section 16). Under section 15, where the provisions of the 1847 Act with respect to taxis were not in force throughout a district council's area, then if they previously applied to part of the area, they now apply to the whole area; and if they were not in force at all, they must now apply throughout the area. In the same way, any local Act affecting the provisions of the 1847 Act ceased to have effect. Section 16 alters a local authority's power to restrict the supply of taxis. Now, an application for a hackney carriage licence may be refused for the purpose of limiting the number of hackney carriages if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages which is unmet. Authorities retain the right to refuse a licence for other reasons.

### **3.REASONS FOR AND AGAINST ENTRY REGULATION**

There are a number of reasons advanced by proponents of entry regulation to support their case. The most significant is the argument that free entry will lead to excessive demand for rank space on the most popular ranks. If cruising and on-street hailing are permitted, this may cause more widespread traffic congestion in city centres. Indeed, if the rank capacity is inadequate, then an increase in the number of taxis may well lead to an increase in cruising. In a city where taxis make up a large proportion of the traffic flow, such an increase could have a disproportionate effect on

congestion. By and large, though, taxis are not a major cause of congestion, there are economic efficiency implications if restrictions are imposed on this sector alone, and the potential for reducing traffic congestion by restricting taxi numbers is very small.

The second argument in favour of entry restriction is that so doing makes it easier to control the quality of the trade. Regulation of quality can maintain continuity of ownership and supply, which reduces the administrative burden of regulation, as well as impacting on vehicle quality. Free entry with low quality thresholds may cause entry to the industry in times of general economic recession at the very time when demand is lower. There is also the problem that deregulation will depress the earnings of incumbent operators, possibly causing them to reduce the quality of their vehicles in order to cut costs. Both these problems may be overcome with strict quality controls and a tough enforcement policy.

The third argument we consider is that deregulation of entry will alter the price/service balance which exists in the market. Unrestricted entry will reduce taxis' occupancy rate and create pressure for increased fares to offset the loss of revenue. There is also the possibility that there will be some short term instability if taxi numbers reach the equilibrium by a process of tatonnement. Other problems relate to the difficulty of ensuring an adequate supply of taxis at all times, since there might be entry of part-time drivers who cream off the profits which can be made at times of peak demand and reduce the supply which is available at less profitable times. This can be overcome by insisting that the grant of a driver's licence is conditional upon the applicant making taxi driving his main occupation. The reduction in double-shifting which deregulation may cause may also alter the times at which taxis are available, since owners may prefer to work the more social hours during the day, thus reducing the level of service at night. This can be prevented by increasing the profitability of night time operation by increasing night time fares relative to those applying during the day.

The final argument in favour of entry restriction relates not to the characteristics of the market but to the effects of deregulating in an industry where entry has historically been controlled. In many districts, a consequence of entry restriction has been the creation of monopoly rents which are reflected in taxi licences taking on a value sometimes as high as £30,000 or more. Many people in the trade have purchased plates at these large sums of money in the expectation that the plates will continue to be a saleable asset. It is argued that it is inequitable to eliminate these without notice. A counter argument is that the existence of licence premia is simply a legacy of past mistakes, and should not be allowed to influence future policy. The fairest solution (which unfortunately costs money) might be to compensate incumbent operators if deregulation erodes the value of their licence.

Of the arguments against continued entry regulation, two are concerned primarily with the practice of regulation and two with the economic effects. Regulation costs money. While it is mostly the case that the cost of regulations concerning vehicle quality are acceptable, the costs being both the increased cost of the higher quality vehicles, as well as the costs to the authority of setting and enforcing the regulations, the expenditure on defending a policy of restricted entry is money which could have been better used to provide a higher quality of service, by paying for more enforcement staff, or providing grants for wheelchair accessibility.

Another problem of regulation is that it confers positions of power and patronage. When a regulator interferes with the market to set prices and/or limit entry, he affects the profitability of operating a taxi. He must, of course, allow a reasonable profit to be made so that the industry continues to exist;

but since he limits the feasible set within which the producers are constrained to operate and possibly prevents profit-maximisation, he implicitly accepts some responsibility for the regulatees and so any regulation becomes self-reinforcing. This "highjacking" of the regulator will be most likely where the two sides have good relations and can, in extreme cases, lead to a complete lack of independence on the part of the regulator who then allows regulatees to decide policy.

The third problem is that the regulation of entry, coupled with a high licence premium, means that service is worse or fares are higher or both than would be the case in a free market. The premium can be transferred from producers to passengers in the form of lower waiting times or lower prices. Given appropriate fares controls and quality regulations, the market will expand to the size consistent with zero excess profit, that is a premium of zero, and so optimal regulation requires only setting the fares correctly. At ITS, we have undertaken a number of studies of this sort and it has always been the case that the fare which produces maximum use of taxis and no premium is preferable to the current state, since the gain to consumers is greater than the loss to producers. As well as entry deregulation, achieving this typically requires fares to fall as well.

The final argument against entry regulation in the taxi sector is that similar controls do not apply in the very similar hire car sector. The hire car sector acts as a safety valve, releasing the pressure on the taxi sector in places where it is heavily restricted. It is very much a second-class substitute, since it cannot undertake all the functions of a taxi, but its very existence is proof that the market will somehow attempt to supply the demands made on it whatever the regulatory constraints. For as long as the hire car sector exists, it provides an external check on taxi fares and all the legitimate objectives of taxi regulation can be achieved through maximum fares regulation and quality control of drivers and vehicles.

#### **4. REASONS FOR AND AGAINST PRICE REGULATION**

There are features of the market which imply a need for price regulation. In a cruising trade, the peculiar spatial structure of the market inhibits price competition. In most industries, consumers are able to compare the terms offered by sellers and accept the best deal. In a cruising cab trade, though, an individual driver cannot expect to attract more passengers by cutting his fares; but, on the other hand, he is not likely to lose passengers if increases his fare. In short, the demand curve faced by each operator is fairly price inelastic. Under normal circumstances, a passenger might not turn down a passing high-price cab since by doing so he will, on average, double his waiting time. As the proportion of high-price cabs increases, so each refusal has an extra waiting time penalty. This is so in a cruising trade even with large operators who can communicate their reduced fares; so such a mode of operation seems to inhibit price competition. However, in most parts of Great Britain, street-hailing is very much a minority way of obtaining a taxi. The existence of telephone companies and taxi ranks where cabs queue for business should remove the barrier to price competition. Even so, in practice it does not occur, certainly in Britain, where the first-in-first-out (FIFO) queuing rule at taxi ranks is almost universally upheld and telephone companies do not appear to try to sell their product by price advertising. The lack of competition and the upward pressure on prices give grounds for regulation especially if, with free entry, the market will not achieve an optimal price/ service level balance. Given free entry, the trade will expand to the greatest size which can be supported, since if it is not there, someone will come in to take it there. This high price/ high availability combination is not optimal unless it maximises ridership (assuming uniform values of time). Only one of price and entry needs to be controlled to correct

this. This is essentially an economic efficiency argument for price regulation.

Another reason to control price is offered on equity grounds. It is undoubtedly true that certain areas of a city (say) will be more likely to generate a trip for a taxi driver than others; and so a taxi driver, who needs to charge fares which cover his vacant time as well as his engaged time, will be able to charge less *pro rata* to some parts of the city than others because he will have a good chance of getting a return hiring. Average fare setting will prevent this.

Fares might also be controlled to prevent the exploitation of ignorant consumers or consumers in a weak bargaining position. American experience of rate deregulation suggests that new entrants go and sit on airport ranks where, for public order reasons, FIFO discipline applies, wait a long time and then charge a passenger a very large fare for a fairly short journey.

Public order considerations are the final reason for fare control. The problem of the existing FIFO queuing rules has already been mentioned. Price competition at ranks would require that cabs at any position in the queue be able to pull out; this may not always be physically possible. This might create antagonism between drivers, leading to unseemly behaviour.

As with entry regulation, the arguments against price control are based on the effects of regulation and the practice of regulation. The most common argument is that private hire fares are not controlled. If the market works in the telephone booking sector, then that acts as a constraint on the prices of the on-street hiring sector, since there is a large degree of substitutability between the modes. Certainly if price competition is practicable, there is every reason to believe that the market will produce a more efficient solution (although not necessarily more equitable solution) than the average cost pricing associated with a regulated fare.

If fares are regulated, there is a problem of getting the level of fares right. Councils typically increase the fares on a regular basis relying largely on changes in the average price level (eg Retail Prices Index) or some index of motoring costs. They may also take into account factors such as the size of any increase in licence fees which they charge. All this, though, presupposes that the base fare level was correct. The taxi trade are not likely to ask for a fare increase which will reduce their revenue; but they are likely to create pressure for fares increases which will increase revenue. Revenue maximisation is unlikely to be the best solution for the public. Optimal fares depend crucially on market conditions, and their determination must be a matter for fairly detailed research in each area. The important factors may not be the same for all areas, and so the commonly adopted procedure of setting fares more or less in line with neighbouring districts may be seriously flawed if market characteristics are substantially different.

The final problem is regulatory capture. As with entry control, the regulator may implicitly or explicitly allow the trade to determine policy and permit the solution the trade wants rather than serving the public interest.

## **5. REASONS FOR AND AGAINST QUALITY REGULATION**

There is much less argument about the need for some form of quality regulation. The important questions concern the appropriate levels. The overriding concern is to protect the public, both users and non-users. Taxi users need to be sure that they are entering a safe vehicle which is adequately

insured, that the driver is capable and of good repute, and, especially for strangers to an area, that the driver is not going to exploit their ignorance by unduly prolonging the journey. Other road users likewise need to be protected from unsafe and under-insured vehicles and drivers. Another useful quality control is ensuring easy recognition of taxis, which can be done by requiring a distinctive livery or, more controversially, by specifying that only purpose-built vehicles are permissible.

Arguments against quality control largely depend on the inappropriate levels set rather than the existence of controls. The classic case is where councils have decided to introduce the Metropolitan Conditions of Fitness. These increase the initial costs faced by potential operators, although these may be offset by the longer life-expectancy of such vehicles. As long as such a policy is not pursued as a back door way of keeping cab numbers down, it is probably defensible given other benefits such as wheelchair accessibility.

## **6. TOWARDS A NEW CAB ACT?**

It is largely accepted that the current legislative framework for licensing taxis and hire cars is in need of overhaul. The Government's review in 1989 at one time offered the hope of replacing the existing fragmented and sometimes ambiguous regulations with a comprehensive Act which would have been as important historically as the 1831 London Act. A more recent model was provided by the 1982 Civic Government (Scotland) Act which, until 1986, provided what might be regarded as a more appropriate piece of legislation. It was slightly spoiled by the 1985 Transport Act, which introduced to Scotland as well as England and Wales the "significant unmet demand" criterion. Prior to that, the key clause had been

"... a licensing authority shall refuse an application to grant a taxi licence if, in their opinion, granting it would have an adverse effect on the general availability to the public in their area of the services of taxis or the cost of providing those services" (section 10 subsection 3).

This section explicitly recognises the interrelationship between fares and vehicle numbers such that the regulators have the discretion to choose between a high price/high availability service or a low price/low availability service. Section 16 of the 1985 Transport Act implicitly pushes regulators in the former direction, which is unlikely to be optimal unless customers place a very high value on waiting time. The flexibility granted by the dual criterion of availability and cost is welcome as long as it is not abused. If licence premia are zero, which the requirement for owners to return plates on the sale of a vehicle suggests they should, and crucially fares are set at the correct level, then licensing extra cabs will have a deleterious effect on fares or existing operators will withdraw from the market. If fares have been set too high, so that a premium would exist if plates were transferable, issuing extra plates need have no impact on the cost of providing taxi services, and so it might be that we should curtail the absolute discretion of local authorities to restrict numbers.

Some people would argue in favour of a single-tier licensing system. It must be pointed out, though, that even in deregulated districts the private hire car trade still exists as a separate entity and there is potentially a distinct role for private hire to play. This is surely so in districts which set taxi fares, since private hire operators have the scope to offer a range of services at a range of prices. However, private hire must not be seen as the easy option. Driver and vehicle requirements should be as stringent for hire cars as they are for taxis (with the exception of imposing Metropolitan

Conditions of Fitness, of course) so that quality is enhanced. Indeed, the key to any successful modern Act must be its promotion of quality. The current vehicle quality regulations, which permit some discretion, are probably adequate, although standards must be enforced; this will probably require greater resources than are currently provided and hence higher licence fees. The driver quality regulations are less satisfactory; many areas still have no knowledge test, in other areas the requirements for private hire drivers are much more lax than those for taxi drivers. A specific knowledge requirement as mentioned in the Civic Government (Scotland) Act, along with physical suitability and lack of relevant criminal record should replace the rather nebulous concept of a "fit and proper person". All in all, the requirement must be an Act which focuses on quality, not quantity. Councils should adopt a more scientific methodology in their fares determination procedures, adopt more proactive enforcement policies and allow the consumer to gain the benefits which liberalising entry can bring. The problem with the Transport Act is that it has not produced the benefits it should have.

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