Customers First: Safety, Service, Choice

TAXI INDUSTRY INQUIRY

Final Report

September 2012

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Foreword

It is now nearly 18 months since the Victorian Government announced its intention to establish an inquiry into the Victorian taxi and hire car industry and 16 months since the Taxi Industry Inquiry commenced its investigations in May 2011.

Over this time, the inquiry has received more than 1,500 written submissions, met with hundreds of people throughout Victoria and heard from taxi users, industry participants and community groups at public hearings and forums across the State. We have commissioned specialist consumer and economic research, issued eight publications on specific taxi and hire car matters, and produced an exhaustive Draft Report *Customers First: Service, Safety, Choice*.

This Final Report summarises the further work carried out by the inquiry since the release of our Draft Report in May 2012. This report does not repeat the comprehensive and detailed analysis contained in the Draft Report; rather, it sets out industry and community responses to the inquiry's draft proposals, discusses the inquiry's re-consideration of critical issues and explains the revisions and additions made by the inquiry to its draft recommendations. This Final Report should be read in conjunction with the Draft Report.

While the inquiry has made some significant modifications to our draft recommendations, we remain firm in our core policy approaches and in our conclusion that the Victorian taxi industry must move away from its current high level of protection and restrictive government regulation to one that embraces competition and self-regulation. This move is essential not only to improving the standard and quality of taxi services for consumers, but also to securing the long term future of the industry.

The inquiry's recommendations aim to relax entry restrictions to the taxi and hire car markets over time, with new licences made available at any time to approved applicants for a fixed annual price. This price will vary according to the geographic area in which the taxi or hire car is operating. The owners of these new licences will not be permitted to assign them to other people, leading ultimately to a more diverse industry structure. Importantly, by placing a cap on annual licence prices and the assignment fees paid to operate a perpetual licence, the recommendations will bring a halt to the ever escalating increases in licence values that have characterised taxi regulation over recent decades.

The inquiry could have gone much further in its approach to removing the restrictions on taxi and hire car licences. In effect, Victoria's taxi industry has operated for many years as a 'closed shop', with a small number of licence holders protected from the effects of competition at the direct expense of consumers, taxi operators and taxi drivers (who continue to experience low levels of remuneration, poor working conditions and a highly risky work environment). The inquiry found no public interest or other grounds for allowing this situation to continue. However, we have not endorsed an immediate move to an open market and are instead proposing a more moderate reform approach, recognising that substantial reductions in taxi licence values are likely to cause financial difficulties to some licence holders.

It is important to appreciate that in adopting this middle path, licence holders will continue to enjoy a level of protection that comes at a cost to paying customers and taxi drivers. Melbourne taxi users pay around $120 million each year (through taxi fares) to maintain the value of taxi licence plates. Under the inquiry's proposals, taxi users will continue to underwrite taxi licence values, but to a much lesser extent than currently occurs.

It is disappointing – if unsurprising – that key elements in the industry continue to resist even a moderate approach to reform. The inquiry's view is that the industry has allowed a situation to continue where much of the revenue generated by the industry flows to licence holders rather than those providing services on the ground: operators and drivers. The industry must bear considerable responsibility for its efforts to prevent past governments from adopting fundamental reform and for failing to take action to lift performance, increase service availability and attract and retain quality drivers. Now, with high levels of customer dissatisfaction and low occupancy rates threatening the industry's future, these elements should not be allowed to derail essential reforms.

It is clear that opening up entry, increasing competition and reducing ineffective and costly regulation is the best way forward for the industry. These reforms will not only improve the choice, quality and availability of services for taxi and hire car users; they will also assist the industry to become more accountable for its performance and to boost demand for its services. Those in the industry who are willing to explore new and innovative service options, and adopt a more

competitive business model, will be encouraged to do so. These reforms will also improve safety (including though safer and more accessible vehicles), lead to better quality drivers, give operators greater freedom in how they conduct their businesses and deliver a much reduced regulatory burden on operators and networks.

Some of these results will take time to emerge. The inquiry is recommending a comprehensive reform package that will unleash the dynamic forces of competition in an industry that has been largely shielded from these forces for decades. While the inquiry is recommending pacing the reforms over three to five years, some volatility can be expected along the way as the reforms filter through the industry and settle down. The Victorian Government needs to hold the course on these reforms and ensure that a competitive market that is responsive to customer needs emerges over time.

Of course, any significant regulatory reform will have varying impacts on industry participants. For some, the reforms will present new options and be seen as positive; for others, adjusting to changed circumstances will present difficulties and be seen as negative. Clearly, there will be an adverse impact on a small group of licence holders – mainly those who purchased their licences within the last 10 years. While the inquiry has found no legal or economic justifications for compensating licence holders, we have suggested to the Victorian Government that it could consider providing tightly targeted assistance to licence holders facing considerable financial difficulties as a result of these reforms.

Since the late 1980s, there have been a number of attempts in Victoria to reform the taxi industry. These efforts have met with little success in the face of vigorous industry opposition. The opportunity for reform provided by this inquiry – unprecedented in its scale and the extent of its analysis – should be welcomed by all who care about the future of the taxi industry in Victoria and who want to see it survive and succeed as a genuinely competitive and innovative industry that offers high quality services to consumers and a fair distribution of revenue to participants.

I thank the many people who have made valuable contributions to the work of the inquiry over the past 16 months. This includes industry participants, taxi users, community and business groups, local councils and economists and industry experts. I also thank the Minister for Public Transport, Terry Mulder, and staff of the Victorian Taxi Directorate and the Department of Transport for their cooperation and assistance. Finally, I thank my talented and hard working inquiry team, particularly Commissioner Dr David Cousins and Project Director Ms Megan Bourke-O'Neil, for their support, diligence and commitment over the course of the inquiry.

When announcing this inquiry in 2011, Premier Ted Baillieu indicated that he expected the inquiry to address "long-standing and deep-rooted" issues and to recommend "sweeping reforms" to the industry that would improve low levels of public confidence, provide better security for drivers and safety for customers, and ensure that drivers are properly trained and knowledgeable. I am confident that our proposed reforms are nation-leading, have more than met the Premier's expectations and will address the serious and systemic problems in the industry identified by the Victorian Government.

I look forward to the Government's response to the inquiry's recommendations.

Professor Allan Fels AO
Chair, Taxi Industry Inquiry

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Changing terminology

The inquiry is recommending the replacement of the existing taxi industry accreditation scheme with a more streamlined, less costly and more accountable permit scheme (see chapter 9). This scheme changes the current terminology applying to some elements of the industry. This report and the inquiry's final recommendations adopt the proposed new terminology.

Current: Licence holder

Proposed: Licence holder – applies only to current licence holders who choose to not operate their vehicles

Current: Taxi licence holder, Responsible person / assignee, Taxi operator, Hire car operator

Proposed: Commercial passenger vehicle permit holder – applies to existing licence holders who operate a vehicle, purchasers of new licences and existing taxi and hire car operators

Current: Network Service Provider

Proposed: Authorised Taxi Organisation (ATO)

Current: Hire car

Proposed: Broad category: Hire car

Proposed: Sub-categories:

Pre-Booked Only cab (PBO) – permitted to do commercial pre-booked work anywhere in their zone

Stretched vehicle – holder of a limousine or stretched vehicle permitted to do commercial pre-booked work anywhere in their zone, excluding airports

Registered Hire vehicle – a registered operator of special category vehicles.

Executive summary

From the commencement to the conclusion of the Taxi Industry Inquiry – across the inquiry's extensive 16-month investigation – one thing has remained clear and incontrovertible: Victorians want better taxi services. It is equally clear that the Victorian taxi industry is not delivering the levels of service quality, availability, accessibility and value expected by the community.

With the overall number of taxi trips remaining static, occupancy rates of taxi vehicles remaining low and taxi businesses facing increasing cost pressures, the effects of this poor performance continue to be felt by many in the industry, especially taxi operators and drivers.

Despite these well-documented problems, the taxi industry has done little to improve its performance, develop new services or take action to attract and retain high quality drivers. Instead, key elements within the industry have focused largely on maintaining high licence values and assignment fees, shielding anti-competitive forces within the industry and shoring up the position of licence holders, large fleet operators, taxi networks and other protected stakeholders.

As set out in the inquiry's Draft Report *Customers First: Service, Safety, Service, Choice* – the inquiry has found that the causes of the taxi industry's poor performance are longstanding and deeply entrenched. Most of the industry's problems stem from the complex and prescriptive regulatory framework within which it operates – a framework that constrains competition, stifles innovation and directs much of the revenue generated by the industry away from those providing 'on the ground' services.

Aside from a few limited instances of entrepreneurship, the industry has failed to take up opportunities to expand into new markets, establish new services or significantly improve existing services. Where businesses have attempted to be innovative, they have often been thwarted by regulatory barriers that restrict their ability to offer flexible and tailored services to customers. When these restrictions are combined with a situation where much of the revenue generated by the industry flows to licence holders, it is not hard to see why the industry is struggling.

The Taxi Industry Inquiry has devoted considerable energy, expertise and effort in endeavouring to find a solution to the moribund position in which the Victorian taxi industry now finds itself. The inquiry's conclusion – set out in its Draft Report and repeated in this Final Report – is that comprehensive structural reform and a fundamental shift in the focus and balance of taxi and hire car regulation is the only way forward for the industry. Under the inquiry's reform proposals, quantitative restrictions on the number of licences will be removed and replaced with price-based restrictions; regulation will become more outcomes-focused and less prescriptive; more responsibility will be placed on the industry for good service performance; and, most importantly, competition will be allowed to operate more effectively to enhance service performance and customer choice.

The inquiry's strong view is that, without significant structural and regulatory reform, the industry will continue to stagnate, with increasingly poor outcomes for consumers and industry participants. Implementing the reforms recommended by the inquiry will ensure that, over time, Victoria's taxi and hire car industry becomes more open, competitive, diverse and dynamic – offering consumers a wide range of high quality, affordable point-to-point travel choices and making a valuable contribution to the Victorian community and economy.

The inquiry's work

Commencing in May 2011, the inquiry's investigation has included a comprehensive community engagement strategy to ensure that as many Victorians as possible had an opportunity to contribute their views on the future of taxi and hire car services. The strategy included seeking formal submissions from the Victorian community, distributing customer and industry surveys, conducting visits and consultations across the State, and hosting specialised forums for taxi drivers, hire car operators and mobility disadvantaged taxi users.

The inquiry conducted and commissioned research into the Victorian taxi and hire car industry and into the operation and reform of the industry in other places around the world. The inquiry also collected and analysed an unprecedented amount of data about the industry and undertook detailed modelling using this data. As well as the Draft Report, the inquiry released a major background paper, *Setting the Scene,* several issues papers and a number of technical reports. Active social media platforms were maintained for the duration of the inquiry.

In the first phase of its work, the inquiry received almost 400 submissions from the Victorian public. Following the release of the Draft Report in May 2012, the inquiry received a further 1,370 submissions, mostly from individuals. In the four months to the end of September 2012, the inquiry met directly with industry and other stakeholders to discuss their responses to the Draft Report, conducted hearings over two days in August and undertook additional analysis and modelling based on new data and information provided in submissions and responses. This further work informed the inquiry's final recommendations and led to the inquiry amending or clarifying a number of draft recommendations, as well as making several new recommendations.

The inquiry's Draft Report

The inquiry's Draft Report contained a comprehensive analysis of the taxi and hire car industry, and made 145 draft recommendations. These recommendations formed an integrated package of reforms that aimed to shift the structure of the industry towards a more open and competitive market with a higher number of owner-drivers and small and large businesses offering greater choice in services, vehicles and price.

Over time, the draft recommendations aimed to deliver the following outcomes:

For consumers – Better services and a greater choice of services that are safe, reliable and affordable, and that offer a bigger range of travel options and prices

For industry – A more diverse and dynamic industry, a reduction in the regulatory burden and new opportunities to expand into new markets and attract more customers

For taxi operators – More choice in the networks they join, the services and equipment they purchase and the types of service they provide

For drivers – Better remuneration and improved working conditions, greater valuing of driver experience and quality, and more opportunities to start their own taxi business.

The Draft Report noted that unduly prescriptive regulation had shaped the taxi industry over many years and was at the heart of the problems raised with the inquiry. While acknowledging an important role for regulation of the industry, the inquiry's conclusion was that reform of the entire regulatory framework affecting taxis and hire cars was needed to achieve sustained improvement in service performance and secure the industry's long term future.

The inquiry's view was that further piecemeal regulation would not deal conclusively with the issues facing the taxi industry and would also reduce the chances of ever achieving substantive industry reform. Accordingly, the inquiry's draft recommendations aimed to generate a fundamental shift in the balance between government, industry and market regulation. The main changes to regulation identified as necessary in the Draft Report were:

- Changing the way entry to the taxi industry is regulated (moving to a restriction based on licence price, not the quantity of licences)
- Stronger regulation covering driver and vehicle quality, including a move away from exploitative bailment arrangements for drivers and allowing greater freedom for operators to use better, safer and more accessible vehicles
- A more effective outcomes-focused and informed regulator
- Greater flexibility and certainty in fare setting to enable more efficient and competitive fares to be set
- Removal of unnecessary regulatory impediments to service innovation and network competition
- Enhanced responsibility and accountability of taxi networks for service performance to both consumers and operators.

Over time, the inquiry's draft proposals aimed to lower barriers to entry, leading to a more diverse industry and encouraging a range of large and small service providers offering much greater choice and flexibility in services.

Responses to the Draft Report

The public response to the inquiry's draft recommendations was overwhelmingly positive. Overall, most of the recommendations were supported in the majority of submissions that commented on them; 120 of the 145 recommendations were supported by two-thirds or more of the submissions that commented on them.

Main features of the response to the Draft Report were:

- There was widespread agreement that taxi services need to improve. Almost all submissions and responses to the inquiry from outside the industry continued to express significant concerns about service, including poor driver quality, unsatisfactory performance by taxi booking services, problems with taxi availability during peak times or in particular locations, and issues with accessibility and services provided to people with a disability.
- The need to improve customer outcomes was acknowledged by the industry's leading representative bodies, the Victorian Taxi Association (VTA) and a newly formed breakaway group, Taxi Industry Stakeholders Victoria (TISV).
- While there was broad agreement on the need for some reform, there was a clear divide in responses to the draft recommendations between the investment interests of taxi licence holders and operators (who focused largely on opposing the proposed changes to licensing and driver remuneration) and responses from community groups, business organisations and local councils (who either supported the broad direction of the reform package or endorsed specific proposals relating to their interests).
- The most contentious areas were the inquiry's proposed changes to taxi and hire car licensing and the new mandatory Driver Agreement. These recommendations were strongly opposed by those with investment interests in the taxi industry.
- There was strong support from outside the industry for proposals to lift the status, income and working conditions of drivers, with many seeing this as being directly related to service quality and, in some instances, as a matter of 'fairness'. Current drivers also strongly endorsed these proposals.
- There was criticism from country taxi operators and networks that the inquiry's reform package was 'city centric' and did not take into account the better standards of service in country areas and the relatively high numbers of owner-operator-driver businesses.
- Opposition to the inquiry's proposed licensing reforms centred around concerns that opening up entry would 'flood' an already 'full market' (leading to a decrease in taxi occupancy, higher consumer costs and lower driver incomes) and cause significant financial problems for some licence holders.

Generally, the response from key elements in the industry was to support the majority of recommendations but strongly oppose major reforms in licensing and driver remuneration. The inquiry is disappointed, but not surprised, that the industry is continuing its long record of opposing substantial reform. The inquiry considers this opposition to be a misdirected, if understandable, attempt to maintain the current high degree of protection enjoyed by licence holders that runs counter to the long term interests of the majority of industry participants.

A moderate path to reform

The inquiry restates its finding that removing the quantitative restrictions on taxi licences (while retaining essential requirements regarding driver quality and competence, vehicle safety and other core matters) will lead over time to more affordable services, improved service standards and higher driver quality, greater demand for taxi services and new jobs in the industry.

It should be noted that the inquiry considered going further in its approach to removing the restrictions on taxi licence numbers by proposing an open entry model.

The inquiry remains firm in its view that the current structure of Victoria's taxi industry protects a relatively small number of licence holders from the effects of competition at the direct expense of consumers, taxi operators and taxi drivers. The inquiry has found no strong public interest grounds for continuing to restrict entry to the taxi market. As noted in the Draft Report, these restrictions are detrimental to competition and innovation, and make it very difficult for a wider range of people, including drivers, to operate taxi businesses. In addition, the holders of these restricted licences are able to capture a substantial share of industry income without re-investing their rewards back into the industry. This has a direct impact on consumers by driving up fares.

However, the inquiry reaffirms that it has chosen not to recommend an immediate move to an open market and is instead proposing a more moderate set of reforms, acknowledging that full open entry would reduce taxi licence values to close to zero and cause significant financial difficulties for some licence holders.

Adopting this moderate approach maintains a level of protection for licence holders at the cost of providing greater and more immediate scope for the industry to pay drivers more and deliver consumer benefits in the form of better quality drivers, lower fares, greater taxi availability and more choice in taxi services. This trade-off between licence values and broader consumer and community benefits means that Victorians will continue to pay a premium for taxi services.

Modelling conducted by the inquiry found that Melbourne taxi users alone pay around $120 million each year to maintain the value of taxi licence plates. There are also associated 'welfare' losses (losses from prices being too high and the quantity of taxi services being consumed too low) of up to a further $76 million each year. Under the inquiry's moderate approach to reform, Victoria's taxi users will continue to underwrite taxi licence values, but to a much lesser extent than at present (around $80 million a year). This still represents a substantial impost on consumers and should be seen as a concession to the industry and, in effect, a form of assistance to all licence holders.

Setting a new direction

The inquiry's final reform package continues to pursue three core aims: increasing and improving the supply of taxis and hire cars, restoring consumer trust in the taxi industry and boosting demand and competition in taxi and hire car services. The inquiry's key reforms are summarised below.

Increasing and improving supply

These reforms aim to remove restrictions on the number of taxis and hire cars on the road, encourage greater competition and innovation in the market for pre-booked services and open up more opportunities for entry into the taxi and hire car markets. Customers will benefit from greater availability and choice of services, and from more reliable and accessible services. Over time, growth in the number of taxis and hire cars will no longer be subject to regulatory oversight. Instead, the decision to enter the market will rest with those who are best placed to make commercial judgements: individuals and firms already in the industry and those outside the industry who are willing to risk capital in a new competitive venture. This is an important and significant shift in the way the industry operates.

The inquiry notes that licensing reform is fundamental to changing and improving the industry as it will enable new entry (at manageable levels), encourage more owner-drivers, boost competition and innovation, and lead to cheaper assignments (reducing operator costs and providing scope for service improvements).

It is clear that the licence value – hovering around the $475,000 mark at the start of the inquiry – produces nothing in terms of customer value. In effect, it is a 'dead weight' on the industry. It is clear that, without the necessity of propping up this value (that is, servicing the capital costs on inflated licence values), the industry would have a much greater capacity to reduce fares, pay drivers more and boost operator profitability.

Key reforms are:

- Rationing taxi and hire car licences by price, not quantity, and making all new licences available at any time to approved applicants at a fixed annual price *(see chapter 3)*
- Making all new taxi licences non-assignable *(chapter 3)*
- Establishing a four tier system of taxi zones:

  - Metropolitan zone – covering metropolitan Melbourne, with conventional licences available for $20,000 per year and WAT licences available for $16,400 per year
  - Urban zone – covering outer metropolitan areas and the regional cities of Ballarat, Bendigo and Geelong: $16,000 for a conventional licence and $12,400 for a WAT licence per year
  - Regional zone – service areas with populations of around 10,000 to 20,000: $10,000 for conventional and WAT licences per year
  - Country zone – covering all other parts of the State: $3,000 for conventional and WAT licences per year *(chapter 3)*
- Aligning hire car zones with taxi zones and making licences available at any time to approved applicants for a one-off set price: $40,000 for a Metropolitan Pre-Booked Only (PBO) licence and $20,000 for a Country PBO licence *(chapter 4)*
- Lifting the restrictions on the type of vehicles that can be used as taxis and hire cars, and introducing a limited subsidy to encourage the uptake of purpose-built vehicles *(chapter 5)*
- Removing the requirement for uniform yellow livery in the Urban, Regional and Country zones *(chapter 5)*
- Allowing advertising on taxis and permitting networks to adopt their own dome light designs *(chapter 5)*
- Removing the requirement for taxi operators to affiliate with a network *(chapter 6)*
- Minimising the entry and approval requirements for networks *(chapter 6).*

Restoring consumer trust in the industry

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

In response to concerns raised with the inquiry by operators, the inquiry has modified its draft recommendation relating to the driver share of the fare box from a 60/40 split (in the driver's favour) to a 55/45 split. The inquiry considers that this provides the optimum balance between improving driver remuneration, maintaining operator viability and moderating new entry to the taxi market.

Key reforms are:

- A package of measures to improve the industry's ability to attract and retain good, experienced drivers – including more stringent entry requirements, an independent Knowledge exam for drivers in the Melbourne and Urban zones and replacing unfair bailment arrangements with a mandatory Driver Agreement that provides for a 55/45 split of the fare box *(chapters 3 and 7)*
- Requiring operators to have insurance policies covering third party property damage and to indemnify drivers in relation to any vehicle damage arising from the use of the operator's taxi *(chapter 7)*
- Amending the relevant legislation to put beyond doubt that taxi drivers are covered by accident compensation provisions and occupational health and safety laws *(chapter 7)*
- Removing the exemption for Victorian taxis from the mandatory use of child restraints *(chapter 7)*
- Extending the current Taxi Rank Safety Program and developing a strategy for reducing the incidence of anti-social and criminal behaviour by passengers *(chapter 7)*
- Establishing a Public Register of industry participants that is readily accessible to the public *(chapter 9)*
- A new streamlined regulatory process that replaces accreditation of operators with a permit system *(chapter 9)*
- A suite of reforms to significantly improve the accessibility of taxi services, including a new Central Booking Service for WATs and an expansion of the Multi Purpose Taxi Program *(chapter 10)*

- A shift to outcomes-focused regulation that places greater responsibility on the industry for performance, while giving networks and operators greater flexibility in meeting prescribed outcomes *(chapters 9 and 11)*
- A comprehensive package of recommendations to build a much more effective industry regulator with good governance arrangements, appropriate resourcing and sound monitoring and enforcement practices *(chapter 11).*

Boosting demand and competition

Fare competition, a better fare structure and other measures will increase the demand for taxi and hire car services. There will be more opportunities for taxis and hire cars to develop new and more flexible services, provide more personalised services and complement public and community transport services. These opportunities will also provide the potential to raise industry revenue and operator income.

Key reforms are:

- The removal of impediments to the introduction of group hire services, such as taxi shuttles and share rides with flat fees *(chapter 12)*
- Measures to better integrate taxis and hire cars with public and community transport *(chapter 12)*
- Increasing taxi access to bus lanes along freeways and major roads *(chapter 12)*
- A two-stage process to move from fare regulation to fare competition in Melbourne, with fares changing from being prescribed fixed amounts to maximum fares in the short term *(chapter 13)*
- The replacement of fare regulation with fare notification and publication in country areas *(chapter 13)*
- A major fare restructure, including an increase in the flagfall and a reduction in the price per kilometre in the Metropolitan zone (to address short fare refusals); replacement of the 'Tariff 3' 50 per cent surcharge on the distance rate with a flat fee of between $10 to $15 (to address the issue of WATs queuing at Melbourne Airport rather than providing services to wheelchair using passengers); and the simplification of 'multiple hire' charging (to support the industry in offering more flexible and innovative services) *(chapter 13).*

The impacts of reform

The proposed reforms will affect individuals and businesses in the taxi and hire car industry in differing ways and to varying degrees. Most industry participants will face some adjustment to changed circumstances. In some cases, adjustment will present business opportunities and be seen as positive; in others, adjustment will present difficulties and be seen as negative.

New entry

The inquiry's licensing reforms have been carefully designed to minimise the amount of new entry in the short term. The focus of these reforms is to redistribute some revenue from licence holders to drivers in the short term and, in the longer term, allow market forces (as dictated by changing demand for taxi services) to play a much greater role in determining the supply of taxis.

The new condition that drivers must receive 55 per cent of the taxi's revenue will add around $7,000 in costs per year for the average operator. The price point of around $20,000 per year for new licences (in the Metropolitan zone) means that operators will pay roughly the same amount as at present (that is, a current annual assignment value of $28,000 to $30,000 along with the existing practice of paying drivers 50 per cent of the fare box). The effect of this 'balance' between existing and new licences should result in fairly low levels of new entry in the short term. In addition, the initial period of industry adjustment to reform will create uncertainties for individuals making commercial decisions about entering the market. Accordingly, the inquiry considers that claims of a 'flood' of new taxis by some industry interests are misplaced.

Despite these constraints to entry, there may be some 'irrational' market entry in the short term. The inquiry has heard from operators who are deeply frustrated with the treatment they receive from licence holders and who have stated they will seek to obtain a licence from the Government simply to become 'independent' and free of the obligation to

pay assignment fees (and other payments) to a licence holder. The inquiry notes that licence holders themselves have the power to influence new entry by offering lower assignment prices and fairer lease terms.

Clearly, some new entry will deliver immediate benefits to consumers in terms of greater service availability. It is also likely to deliver benefits to the industry by allowing some unmet demand to be supplied, particularly at peak times such as Friday and Saturday nights. The inquiry's view is that the market will ultimately determine the level of new entry that is viable and sustainable over the longer term. As experienced by other jurisdictions that have removed quantitative licence restrictions; as long as sufficiently stringent regulations are in place to ensure the safety and quality of services, 'excessive' entry will be resolved ultimately by a competitive taxi market. There may be a difficult initial period of adjustment for the industry, but – given its many decades of protected status – the inquiry does not consider this an unreasonable or unfair outcome.

It will be essential for the Victorian Government to 'hold the course' during the early years of reform to allow the industry to adjust to the new policy settings.

Industry adjustment

Taxi drivers have been major losers under the current restricted entry system and will be better off under the inquiry's reforms. The inquiry expects its recommendations to significantly improve the prospects of drivers by providing them with a fairer – and guaranteed – split of revenue, tightening up entry requirements to improve service, enhancing the bargaining power of experienced drivers and giving drivers an opportunity at reasonable prices to become licence holders.

The impacts on taxi operators will vary depending upon the size and location of their fleets and whether they own their licences. Operators who do not own a licence will experience lower costs from the reduction in assignment prices (although these will be offset by higher driver remuneration), while owner-operators will not benefit from this reduction.

Other elements of the reforms (such as the removal of mandatory affiliation with networks) will lead to significant benefits for taxi operators. Overall, the costs of operating a taxi will be lower and operators will have more choice in the networks they join, the services and equipment they purchase, and the types of service they provide. There will be more networks of various sizes that offer operators a bigger range of services.

Hire car operators also stand to benefit from the reforms, being able to offer a greater range of pre-booked services – from the premium, 'high end' market to more affordable and/or specialised services.

Adverse impacts of the reforms are most likely to be felt by the holders of perpetual, transferable and assignable licences purchased within the last 10 years – and especially those who acquired their licences after 2007. Licence values in Melbourne were around $475,000 at the start of the inquiry (and may have softened in recent months). The inquiry's analysis suggests that these values may reduce to between $250,000 and $300,000, although it is impossible to make a precise prediction. The annual income available to licence holders from assigning their licences will reduce from around $30,000 per year to around $20,000 per year. The inquiry's examination of the approximately 4,330 taxi licences on issue in metropolitan Melbourne shows that around 450 owners who acquired licences post-2006 would experience a negative return as a result of these reforms. There may also be other instances of significant adverse financial impacts.

The inquiry's analysis is that there are no legal or economic grounds for compensating licence holders. Amongst other reasons, since 1983 there has been an explicit provision in the relevant Victorian legislation that compensation is not payable to an existing taxi licence owner as a consequence of decisions to issue any other licence or vary any licence conditions or terms. It is also evident that, over the last 25 years, efforts have been made by successive governments to move away from less restrictive taxi licensing – including the sizeable release in recent years of new licences in Melbourne. These efforts should have suggested to licence holders that the value of these licences could be subject to changes in policy and regulation, and that the high assignment returns obtained from these licences contained a significant 'reward for risk' component.

The impacts of reform are also unlikely to be regressive, given that the substantial cost of buying a taxi licence means that many Victorians could not afford to own a taxi licence, let alone several licences. Comparing the value of a recently acquired metropolitan Melbourne taxi licence to the average net wealth position of Victorian households

indicates that the outlay to purchase a single taxi licence a few years ago was equivalent to more than the average household net wealth of over half of all Victorian households.

Despite concluding there are no compelling legal, economic, equity or policy arguments for compensating licence holders, the inquiry accepts that some owners may suffer significant financial difficulties as a consequence of the reforms. The inquiry is suggesting to the Victorian Government that it consider providing tightly targeted assistance where such financial difficulties can be demonstrated.

Country Victoria

Many country networks told the inquiry that because they believe they are providing a high quality service, the underlying regulation of the industry is working and should not be changed. The inquiry does not agree with this reasoning. While acknowledging that many country taxi operators offer an excellent service and are dedicated to serving their local communities, the inquiry does not consider this to be sufficient grounds for refusing opportunity to others, impeding competition or denying that improvements can be made – especially in light of the clear evidence of poor taxi availability in small country towns and some regional centres.

The inquiry strongly rejects the assertion that its recommendations represent a 'one size fits all' approach to reform. In fact, the inquiry has sought regulatory solutions that reflect differences in industry structure: for example, in relation to fare setting and uniform livery requirements. Nor do the draft recommendations reflect a 'metropolitan only' focus. The inquiry has found inefficiencies specific to regional Victoria and major gaps in service availability. It is clear that country operators are subjected to unnecessary costs and have limited scope to expand their businesses.

There is little evidence to suggest that there will be a 'flood' of new entrants to regional and country markets as claimed by some industry interests. Incumbent operators will have a significant market advantage and new entrants will have to incur substantial costs associated with the acquisition of a licence and other set-up expenses. As in Melbourne, new entrants will still have to assess whether they can maintain a viable operation.

It is clear that the biggest losers from maintaining a highly regulated taxi market in country areas are customers, who are faced with limited service choices, highly regulated fares and inflexible point-to-point transport options.

As already noted, the inquiry remains of the view that the form of restriction on taxi licence numbers should be changed to one based on price. This will leave the decision about entering the country taxi or hire car market to those best placed to make the commercial judgement about whether they can operate a service profitably in a particular area. Over time, this should lead to a better matching of supply with demand for services, increasing the availability and type of services in many country areas.

The inquiry has reviewed its zoning recommendations in light of concerns raised by country networks and others. After further consideration of geography, population and licence price data, the inquiry's revised approach proposes four zones, with some revisions to the specific allocation of service areas.

The inquiry's recommendations will also remove unnecessary regulation for country and regional operators. The removal of the continuous service provision will also give them a much greater choice around the services they offer and enable them to better match services with community needs.

The inquiry has also maintained its position in relation to a price notification system in Regional and Country zones. The adoption of this system will put greater control in the hands of country operators and networks, allowing a tailoring of services and prices to the costs of running their business. Removal of such restrictions will also encourage greater flexibility, innovation and choice in taxi services. Revenue for country operators should be boosted by allowing shared ride and fixed route services and allowing taxis to provide community transport when it is efficient to do so.

In short, the inquiry's strong view is that its proposed reforms offer significant new opportunities for country operators and networks, as well as opening up the prospect of more flexible and responsive services – and a greater availability of services – to customers in regional Victoria.

Challenges for the industry and regulator

As stated in the Draft Report, the inquiry found very little evidence of improvement in practices or innovation in the taxi industry. The inquiry considers that the confining structure and nature of the industry has contributed to this state of affairs. By contrast, the hire car industry (which is not bound by strict regulation) is much more in tune with its customers' needs and expectations, reflected in higher levels of customer satisfaction.

The inquiry's reforms raise challenges for the industry. Instead of focusing on protecting licence holders and relying on a flow of temporary, poorly paid drivers, the industry will need to focus on improving services, building a high quality workforce (attracting and retaining experienced drivers) and actively pursuing new markets. Industry participants will need to adopt broader perspectives to achieve these outcomes.

The inquiry's view is that many current stakeholders may struggle to navigate and exploit the new industry environment. New entrants with a fresh outlook and a focus on customer service, competition and continuous improvement may act as a catalyst for embracing the reforms and building a more dynamic industry. This can only be of benefit to the industry.

Over the course of the inquiry, it has become evident that the industry relies heavily on the current regulator, the Victorian Taxi Directorate (VTD), to 'fix' problems such as low driver and vehicle quality. The culture of the taxi industry has been to rely on Government (through the VTD) to impose stricter regulations when problems emerge and then enforce these regulations. Government has acquiesced to this approach. The inquiry's reforms will require the regulator to perform a very different role in the future.

The Taxi Services Commission will assume the role of regulator following the Government's response to this Final Report and will be charged with responsibility for implementing any reforms the Government adopts. The Commission will need to establish new regulatory objectives, functions and tasks, and develop a regulatory framework that is much more consumer-oriented and outcomes-focused. This will require a radical shift from the practices of today.

For its part, the industry will need to take greater responsibility for its performance and will need to develop a strong new culture of self-regulation and accountability. The inquiry's recommended reforms will facilitate this change in culture through network service standards, complaints reporting, an accessible Public Register of industry participants and regularly reported 'league tables' of performance.

The benefits for consumers

Consumers have indicated very strongly that their needs are not well-served by the current system. They have much to gain from the reforms in terms of service performance, safety and competition – an appropriate outcome given the strong customer and service focus in the inquiry's Terms of Reference.

A strong customer focus – including greater industry responsibility for performance and a willingness to explore better ways of providing services – will ensure that the taxi and hire car industry continues to grow. Over time, more services will be available and reliable, safe and accessible services will be offered by a range of different service providers; from independent individual operators to groups of operators and large and small networks.

Consumers will have a wider range of service providers from which to choose, multiple ways to pre-book services and more options in relation to price, vehicle type and travel experience.

There will be more diversity in the vehicles being used as taxis and hire cars, offering more travel options – especially for people with a disability. More trip types will be available, such as share rides, taxi shuttles and taxi-buses. In parts of regional Victoria, taxis will operate as small buses, filling gaps in the public transport network and providing vital and affordable access to employment, services and recreational activities.

An expanded and vibrant hire car market will operate alongside taxis, expanding the choice of pre-booked point-to-point services available to consumers. Some of these services will be ‘luxury’ services; others will offer different types of service, depending upon what customers want.

People with a disability will have access to reliable and safe taxi services through a more reliable, responsive and accountable booking service. Taxi drivers will be better trained in assisting people with a disability. Taxi organisations that offer WATs will provide a dedicated, safe and highly responsive service.

Information about the taxi and hire car industry will be publicly available and it will be easy for consumers to find out about particular taxi organisations and operators, the services they offer, the fares they charge and how they are performing. With direct access to data from taximeters, the industry regulator will monitor the industry more effectively and make better decisions about industry policy and regulation. Taxi users will use their smartphones to scan in-cab bar codes to identify the driver, operator and licence holder of the vehicle in which they are travelling and make an immediate complaint or record a positive comment about good service.

These outcomes will evolve over time as the industry becomes more competitive and diverse. They represent a substantial improvement in the current levels and standards of service available to consumers.

Implementing reform

The inquiry has mapped out a possible path for implementing its reforms, noting that both the industry and the regulator face significant challenges in making the transition from the current regulatory regime to the new model proposed by the inquiry. With the timing of reforms critical to the success of the overall integrated package, this Final Report sets out a sequence for the implementation of the inquiry’s recommendations over three years, commencing in late 2012.

List of recommendations

1. Taxi Licences and Zones: Metropolitan, Urban, Regional and Country

1.1

A new approach to taxi licensing should be adopted statewide whereby new licences are available at any time to approved applicants at a set price. The restrictive public interest test currently applying to the issue process for country taxi licences should be removed. All new licences in Victoria should be granted 'as of right' to approved applicants who wish to purchase them.

1.2

The new taxi licences should have a uniform set of conditions established in regulation, including that they are:

- annual but automatically renewable unless challenged by the regulator
- transferable
- non-assignable (the rights to operate the vehicle cannot be given to another party)
- payable upfront annually via a price fixed in perpetuity (not indexed)
- able to be handed back (upfront payments will not be refundable)
- not subject to the current 'continuous operation' licence condition so that they can determine their own hours of operation

1.3

In transitioning to the new licences, holders of the 10-year Metropolitan Wheelchair Accessible Taxi (WAT) licences issued throughout 2010 and 2011, and the restricted peak service 'green top' licences issued between 2003 and 2009 that operate in metropolitan Melbourne, should be offered the option to convert to the new annual licence (including the new terms, conditions, payment prices and method of issue). Additionally, the holders of the 200 Greater Melbourne Taxi Licence Release (GMTLR) fixed term conventional licences should be converted to the new annual licence (including the new terms, conditions, payment prices and method of issue), with the effect of no further licence fee payment being charged for a total of 15 years (of holding the licence).

1.4

The Taxi Services Commission should monitor the number of licensed and operating WATs to ensure that demand and government incentives are sufficient to ensure an adequate supply of WATs for people with a disability.

1.5

The restriction on limiting the assignment period for assignable licences to no more than three years should be removed.

1.6

New and existing taxi licences should be authorised to operate in a four tier system of zones, with corresponding prices for new licences established for each zone (as below):

Zone 1: Metropolitan

Metropolitan Melbourne (largely consistent with the Melbourne Urban Growth Boundary)

- Conventional: $20,000 per year
- WAT vehicles: $16,400 per year

Zone 2: Urban and large regional

This zone should include the current Outer Suburban zone (Frankston and Dandenong), the Mornington Peninsula), other zones adjacent to the Metropolitan zone, and the regional cities of Ballarat, Bendigo and Geelong

- Conventional: $16,000 per year
- WAT vehicles: $12,400 per year

Zone 3: Regional

This zone should comprise service areas of population sizes around 10,000 – 20,000 such as the Latrobe Valley, Shepparton, Swan Hill, Echuca, Horsham, Colac, Ocean Grove and Warragul

- Conventional and WAT vehicles: $10,000 per year

Zone 4: Country

This zone should comprise all other parts of the State not covered by Zones 1, 2 and 3

- Conventional and WAT vehicles: $3,000 per year

The Taxi Services Commission should designate an overlapping boundary zone of no less than five kilometres on either side of the actual boundary between the Metropolitan and Urban zones, allowing for taxis that are licenced to operate in the Metropolitan and Urban zones to operate normally anywhere within this boundary area.

1.7

A shared Metropolitan and Urban zone should be defined at Avalon Airport to allow Metropolitan zoned taxis (and, potentially, other Urban zoned taxis) to service the airport for customers who are bound for Melbourne. Separate Melbourne (or other destination) and Geelong ranks will need to be established at the airport to support this shared zone.

1.8

The Taxi Services Commission should have the power to review zones, through a public process, in response to emerging issues and changed market conditions and, if necessary, to extend zones or create overlapping zones. This may be particularly relevant for areas adjacent to Melbourne that are growing rapidly, as well as other areas of significant growth across Victoria such as the Bellarine Peninsula bordering Geelong. The Commission's longer term objective should be to further rationalise and relax zone regulation in light of changes in market structure and market forces that will ensure adequate service coverage.

2. Hire cars – Pre-Booked Only (PBO) cabs, Stretched vehicles and Registered Hire vehicles

2.1

The policy of hire car licences being available for purchase at a set price and 'as of right' to approved applicants in the metropolitan hire car area should be extended to the Country hire car area. As a consequence, the restrictive public interest test currently applying to the issue process for country hire car licences should also be removed.

2.2

The existing Metropolitan hire car zone should be expanded to align with the Metropolitan and Urban taxi zones (as at Recommendation 1.6). Areas outside of this (which includes the Regional and Country taxi zones, as at Recommendation 1.6) should form a new Country hire car zone. New and existing licences VHA, VHB, VHC and other current licences with full operating rights (including hybrid licences) should be authorised to operate a Pre-Booked Only (PBO) service in these two zones. The existing licences should transfer to the new PBO category. New PBO licences should be available for purchase by approved applicants at a one-off set price established for each zone, as below:

- Metropolitan hire car zone: $40,000

- Country hire car zone: $20,000

2.3

The PBO licence should have a uniform set of conditions established in regulation, including that they are:

- of no fixed term
- transferable
- non-assignable (the rights to operate the vehicle cannot be assigned to another party)
- restricted to pre-booked operation only
- restricted to operation within the zone/s for which they are issued

2.4

The current (minimum) requirement for existing hire car licence holders to purchase a vehicle meeting the value of the luxury vehicle tax threshold should be removed.

2.5

All PBO drivers should continue to be required to be accredited and a new requirement added that they display their accredited driver ID prominently inside the vehicle.

2.6

The mandatory requirement currently in place for Metropolitan hire car drivers to undergo the *Course in Taxi Driving* should be removed and Metropolitan PBO drivers should not be required to sit the independent Knowledge exam (refer Recommendation 5.4). Accredited permit holders operating PBO services should ensure the adequate training, skills and competence of their PBO drivers by, for example, delivery of their own induction and training program or by choosing to send drivers to all or part of a taxi driver training course.

2.7

PBO vehicles should be easily identifiable to the public and regulators by a specific number plate prefix and a visible, prominent permanent sticker on the windscreen. Consistent with recommendation 7.2, PBO vehicles will be required to provide in-vehicle access to customer information that is compatible with smart phone technology and display any other customer information that is determined by the Taxi Services Commission.

2.8

A new Stretched Vehicle licence category should be available for purchase to approved applicants at set one-off prices of $15,000 for Metropolitan zone hire car operators and $10,000 for Country hire car zone operators. The Stretched Vehicle licence should provide the licence holder full operating rights, excluding at the airports. Stretched vehicle operators who wish to operate at the airport will need to purchase a full PBO licence.

2.9

The Stretched Vehicle licence should have a uniform set of conditions established in regulation including that they are:

- of no fixed term
- transferable
- non-assignable (the rights to operate the vehicle cannot be assigned to another party)
- restricted to pre-booked operation only
- are not permitted to operate at Melbourne or Avalon airports

2.10

A vehicle-based registration system should be established for two types of restricted purpose vehicles that currently operate under a Restricted Hire (RH) licence: motorcycles and tricycles, and vehicles with special off-road features (4WDs). Registration of these vehicles will be available 'as of right' for an upfront payment of $1,500 and an annual registration fee of $500 to applicants who satisfy basic entry requirements of proof of identify and a national police check. Existing RH vehicles and Special Purpose Vehicles that fit the vehicle categories set for the new registration scheme should transfer automatically to the new Registered Hire category at no charge, and then be made subject to the new annual fees.

2.11

Vehicles used only for wedding and tours will no longer be required to be licenced or registered by the Taxi Services Commission. If used for other commercial hire services, they will require a PBO licence.

2.12

Any person operating a Registered Hire or Stretched Vehicle licence and found to be operating outside of the conditions of their registration or licence will be deemed to be operating as an unlicensed PBO.

2.13

A more orderly approach should be adopted at Melbourne Airport to provide a smoother process of pick up and drop off of customers and to deal with the problem of touting, including:

- the terminal operators making available rental space to a third party or parties to provide a PBO cabs booking kiosk
- consideration that any tender offered by terminal operators at Melbourne Airport for a PBO booking kiosk should provide access for more than one operator or network to the booking kiosk, to enhance competitive pressures between operators
- ensuring adequate on-site and off-site parking facilities for PBO cabs
- a designated pick up area for drivers to meet customers

2.14

The Taxi Services Commission should establish a Working Group including representation from the Commission, Melbourne Airport, the Victorian Taxi Association and hire car industry representatives to consider implementation of the Taxi Industry Inquiry's recommendations concerning the airport and future initiatives.

2.15

As a matter of priority the Taxi Services Commission should develop strategies to ensure the elimination of illegal touting by unlicensed/unregistered or licensed/registered operators and report on progress regularly. The Commission should be given adequate powers to deal with unlicensed/unregistered operators and vehicles touting for work. Penalties should be increased to provide sufficient deterrence to prevent illegal touting.

3. More diverse and better vehicles

3.1

The Taxi Services Commission should submit to the upcoming second review of the Australian Disability Standards for Accessible Public Transport (DSAPT) about the adverse outcomes for accessibility, vehicle quality and operator costs that are likely to arise from the proposed requirement for a three dimensional allocated space for 'accessible taxi vehicles' (to be introduced 1 January 2013), and why State regulators should be allowed some flexibility in regards to minor intrusions into a three dimensional space in setting regulations.

3.2

Superior designed, purpose-built, universally accessible taxi vehicles that are used in overseas jurisdictions – for example, the London 'black cab' and the New York Nissan NV200 - should not be prevented from operating in the Victorian fleet as conventional and wheelchair accessible taxis (WATs). These vehicles should exist in addition to DSAPT-approved WATs, and when transporting wheelchair passengers, be eligible for wheelchair trip incentives including the Multi Purpose Taxi Program subsidy and the driver lifting fee.

3.3

New outcomes-based vehicle standards (focusing on safety, accessibility and comfort especially) should be developed as soon as possible, to encourage a wider range of taxi and PBO vehicles, including purpose-built vehicles. The new standards should include a minimum requirement for all vehicles to be compliant with Australian and Victorian vehicle-related legislation such as the Australian Design Rules, the *Victorian Road Safety Act 1986* and Roadworthy Certificate requirements. To the extent that the new standards impose additional costs on permit holders, these should be considered as part of a future taxi fare review and be reflected in regulated fares.

3.4

In the short term, the Government should introduce a limited purpose-built vehicle subsidy (for example, providing for up to 50 permit holders to access a subsidy of $20,000 per vehicle for purchase of a purpose-built taxi) to encourage the uptake of these vehicles and to assist in determining the costs of converting all or a larger part of the taxi fleet to these vehicles in the longer term.

3.5

Existing vehicle standards should be amended to allow purpose-built vehicles to have an age limit of 10 years, with extensions beyond this time being made subject to six-monthly inspections.

3.6

Age limits for other taxi vehicles and luxury PBO vehicles should remain unchanged at this time (subject to the Taxi Services Commission undertaking further research on the impact of age on vehicle safety, as per Recommendation 6.2). These age limits should be applied to PBO vehicles that do not meet the luxury vehicle tax threshold:

- maximum vehicle age: 6.5 years
- maximum vehicle age for entry into the taxi and non-luxury PBO fleet: 2.5 years

3.7

Vehicle standards should set requirements for:

- distinctive markings and features (enabling easy identification of the vehicle as a taxi, PBO cab, Stretched Vehicle or Registered Hire vehicle), such as windshield stickers and/or distinctive licence plates, and require all vehicles to maintain a professional image
- larger, clearer displays of customer information inside the vehicle as appropriate, such as (in relation to taxis) information about fares, advising that safety cameras are in operation, and how to make a complaint

3.8

Standards for taximeters should set the following requirements:

- taximeters should include all components of the fare, including tolls
- taximeters should have the functionality to voice transmit all components of the fare to customers
- taximeters should be required to be accurate. Meters should be pattern tested, installed and verified by expert independent service providers in accordance with international and national standards
- taximeters should be regulated by the National Measurement Institute under the Australian National Measurement Act 1960, after appropriate protocols with the Taxi Services Commission have been determined

3.9

All trip and fare data should be transmitted directly on a continuous basis from the vehicle to the Taxi Services Commission.

3.10

Permit holders should be permitted to have advertising on and/or in their taxi and/or hire car vehicles, subject to rules set by the Taxi Services Commission in relation to size, placement, subject matter and other requirements.

3.11

The regulation covering taxi dome lights should be outcomes-focused and include automation of signalling linkages from taximeters to the dome light to show clearly the status of the taxi (whether hired, available or not available). Authorised Taxi Organisations should be permitted to adopt their own dome light design consistent with the new regulation.

3.12

Regulation requiring taxis operating in the Urban, Regional and Country zones to have yellow livery (whether affiliated with an Authorised Taxi Organisation or independent) should be removed. Urban, Regional and Country zone taxis should be permitted to adopt their own liveries, subject to meeting requirements that they maintain a professional image and on approval by the Taxi Services Commission. The Commission should assess the case for removing the requirement for yellow livery in the Metropolitan zone if this emerges as an obstacle to competition.

3.13

Victoria should seek the support of other Australian jurisdictions for a more cooperative national approach to vehicle standards. In particular, the Victorian Government should actively pursue:

- greater consistency in vehicle regulations to assist manufacturers and importers in supplying more appropriate vehicles to the Australian taxi market as a whole (particularly in relation to purpose-built taxis and wheelchair accessible vehicles)
- enhancing the role of the National Measurement Institute in regulating taximeters Australia-wide and working with jurisdictional taxi regulators to set appropriate national standards for meters

4. More networks and more choices for taxi businesses

4.1

Persons permitted to provide taxi and/or Pre-Booked Only services should be able to choose to operate independently or affiliate with one or more approved Authorised Taxi Organisations. Regardless of this decision, all permit holders should retain responsibility directly to consumers for the services they provide and must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.

4.2

Entry requirements and approval for Authorised Taxi Organisations should be minimal to reduce the regulatory burden and compliance costs on these organisations and encourage new entrants and competitors to existing networks. Approval criteria for Authorised Taxi Organisations should centre on:

- a minimum fleet size (of 20 vehicles in the Metropolitan Melbourne zone with discretion to approve a lower fleet numbers in Urban, Regional and Country zones) and capacity to provide 24/7 service
- identification of the responsible person or persons of the Authorised Taxi Organisation, and each person satisfying requirements of a character check (includes national police check and proof of identity)
- capacity to adhere to operating rules setting out minimum service and other requirements (see Recommendation 8.7)

4.3

The requirement for a licensed taxi vehicle to be operated under control of an approved depot *physically located in their specified zone* should be removed.

4.4

Authorised Taxi Organisations should be required to provide regular reports on service performance as requested by the Taxi Services Commission. The Commission should publish details of service performance in a way that is widely accessible in order to assist consumers in making informed decisions.

5. Better quality drivers

Driver entry and training

5.1

The existing accreditation scheme for taxi and hire car drivers should be redeveloped to address policy, equity, efficiency and resourcing issues. An adapted model should identify safety as the prime consideration and be based on identifying key disqualifying offences in legislation, but should also be structured in a way that appropriately provides for use of discretion by the Taxi Services Commission and for use of the discretion to be transparent. It should provide for internal review mechanisms that are separate from the operational decision making of the Commission, as well as for appeals against decisions of the Commission to also be made to the Victorian Civil and Administrative Tribunal (VCAT).

5.2

The administration of bus driver and driver instructor accreditation should be transferred to a more relevant Government agency. If this is not done the Taxi Services Commission should be able to recoup fees for providing these accreditation services from the agencies concerned.

5.3

Taxi and Pre-Booked Only driver entry requirements should be adjusted to remove the ability of applicants to undertake an Independent Driving Assessment in lieu of having held a Victorian Driver Licence for 12 months. The requirement should be for all applicants for driver accreditation to have held a Victorian Driver Licence for a minimum six month period. An equivalent interstate or New Zealand licence held for six months before qualifying for a Victorian licence should also meet this requirement. Further, the six month restriction relates to a full licence, not a probationary licence. Persons from overseas on temporary or permanent visas should be required to provide evidence of having held their Victorian licence and been a resident in Victoria or interstate for a minimum of six months.

5.4

Entry level examination of new drivers should be undertaken independently of Registered Training Organisations and Authorised Taxi Organisations. New independent Knowledge exams for the Metropolitan and Urban zones should be developed and administered directly by the Taxi Services Commission or under contract to a third party. The independent examination should be compulsory for all new taxi drivers intending to drive in the Metropolitan and Urban zones, as a mandatory step before obtaining driver accreditation. This requirement replaces the current compulsory requirement for applicants to complete the *Course in Taxi Driving.* Further, from 1 July 2014, all Metropolitan and Urban zone taxi drivers who have driven for less than five years and who are seeking to renew their driver accreditation should also be required to pass or have passed the Knowledge exam for their area, before their accreditation renewal is issued.

5.5

The Knowledge exams should assess applicants against the range of competencies outlined in the current *Course in Taxi Driving*, and should be developed in consultation with the taxi industry and other key stakeholders, such as the

disability community and advocacy agencies. The exam should include a combination of online and on-site testing, practical driving and customer service components.

5.6

Registered Training Organisations, the Taxi Services Commission, disability advocacy groups and service users should work together to enhance the current content and delivery of disability awareness training. This should occur within the context of the *Provide Taxicab Customer Service* unit of the *Course in Taxi Driving* to ensure that training remains relevant and that new drivers are provided with exposure to and awareness of the needs of a wide range of customers. The Knowledge exams should include assessment of knowledge and skills in disability awareness.

5.7

Drivers who intend to drive a Wheelchair Accessible Taxi (WAT), and/or a taxi capable of transporting a passenger with a wheelchair should continue to be required to undertake the stand-alone unit of the taxi driver training course, *Provide Wheelchair Accessible Taxi Services to Passengers with Disabilities.* Assessment of this unit should be conducted through an independent examination, in the same way as the Knowledge exam.

5.8

The inquiry considers subsidising WAT driver training to be unnecessary given the range of other incentives (for example the lifting fee and higher occupancy fee) in place to ensure there are sufficient numbers of WAT drivers, and it should be removed within a year.

5.9

Regional and Country zone taxi drivers should not be required to undertake a Knowledge exam; however, permit holders in these zones should be required to ensure the adequate training of their drivers, either through delivery of their own induction and training programs, by the practice of 'mentoring' new drivers and/or by choosing to send drivers to all or part of a taxi driver training course.

5.10

The practice of the industry mentoring new drivers 'on the job', which currently occurs predominantly in country Victoria, should be encouraged across the industry. The Taxi Services Commission should develop appropriate guidelines, in conjunction with the industry, for managing in-car training (for example, informing customers of the presence of a second driver who is providing in-car mentoring at the time of booking or when a customer is selecting a taxi from a rank).

Driver pay and conditions

5.11

Bailment agreements should be replaced with a fairer Driver Agreement for drivers who are engaged by permit holders to drive their vehicles. New legislation should be passed to require all permit holders to engage taxi drivers under the new Driver Agreement (unless the drivers are otherwise engaged as employees). The Driver Agreement should be drafted recognising that the parties to the agreement do not have equal bargaining power, and should provide a better revenue sharing arrangement for drivers by establishing a minimum percentage of 55 per cent of the fare box revenue to be provided to the driver.

5.12

Provisions that should be included in the new Driver Agreement include:

- that the driver must be paid a share of the fare box of no less than 55 per cent, excluding existing lifting fees and, if relevant, surcharges paid to the driver
- that the driver must be allowed to take up to four weeks unpaid leave where s/he has worked regularly for 12 months or more for the permit holder

- that the permit holder must maintain a third party property insurance policy. The permit holder will be required to indemnify his or her driver/s in relation to any vehicle damage (including to the taxi) arising out of the use of the permit holder's taxi. Any excess payable under an insurance policy for a claim involving an operator's vehicle should be paid by the permit holder, unless the driver has been wilfully negligent (refer also to Recommendation 5.21).
- the service standards with which the driver must comply
- that the operator is responsible for all vehicle related operating and maintenance costs, including fuel
- the basis on which either party may end the agreement
- that either party can raise a concern about specific application of the Agreement for advice by the Taxi Services Commission. In the event the matter is not resolved, the Commission can refer the parties to the Victorian Small Business Commissioner (VSBC) and to VCAT.

5.13

Permit holders and drivers should be allowed to reach an alternative agreement on payment rates (such as minimum hourly rates) subject to the driver being no worse off. This means that drivers could receive the greater of a minimum hourly rate or the minimum percentage of the fare box revenue specified in the Driver Agreement.

5.14

The Taxi Services Commission should be able to bring proceedings before VCAT or a court to enforce the terms of a Driver Agreement.

5.15

The Taxi Services Commission should undertake a review in year five of the reform implementation program to examine the continuing necessity of the Driver Agreement. The review should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with other employment arrangements, as well as growth in numbers of owner-drivers and indicators of industry retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

5.16

The Victorian Government should amend the *Accident Compensation Act 1985* to make clear that a taxi driver engaged under a Driver Agreement is deemed to be a worker for the purposes of the Act and the *Accident Compensation (Workcover Insurance) Act 1993.* WorkSafe Victoria should implement strategies to better inform industry participants about their rights and obligations under these Acts.

5.17

Through legislative amendment, the Victorian Government should put beyond doubt that taxi drivers are owed a general duty of care by any person that has engaged them in their business. WorkSafe Victoria and transport safety regulators should raise the awareness of permit holders and drivers of their rights and responsibilities and take enforcement action as appropriate to provide the necessary case law that makes clear the Courts' position on this.

5.18

The Taxi Services Commission should provide guidance to drivers on their rights in relation to workers compensation insurance, occupational health and safety, crimes compensation and other statutory protections.

5.19

Consumer Affairs Victoria (CAV) should ensure that taxi clubs comply with the provisions of the *Associations Incorporation Act 1981,* when they are registered under the Act. The Taxi Services Commission should liaise with CAV in relation to the regulation of taxi clubs under the Act and other general consumer legislation. In addition, CAV

should monitor clubs which offer insurance-like products for compliance with the conduct provisions of the Australian Consumer Law, particularly those provisions relating to misleading or deceptive conduct.

5.20

The existing *Customer Charter for Victorian Taxi Services,* introduced in 2004 in relation to taxi drivers and their relationship with customers, should be withdrawn and a new revamped charter introduced. The new charter should take into account best practice in relation to customer charters and the recommendations of the inquiry around safety and service standards for passengers and drivers, community perceptions and responsibilities of each party. The Taxi Services Commission should work with taxi drivers, the industry and consumer groups, including consumers with a disability, to put this into effect.

Properly insured taxis

5.21

Legislation should require a permit holder to have a policy of insurance covering third party damage arising out of the use of the permit holder's taxi. The policy should:

- be issued by a corporation authorised under the Insurance Act 1973 (Cth) to carry on an insurance business; and
- provide sufficient cover in the opinion of the Taxi Services Commission

Legislation should require a permit holder to indemnify his or her driver/s in relation to any vehicle damage (including to the taxi) arising out of the use of the permit holder's taxi. Any excess payable under an insurance policy for a claim involving an operator's vehicle should be paid by the permit holder, unless the driver has been wilfully negligent.

5.22

The Taxi Services Commission should ensure its communication with drivers recognises that many drivers come from non-English speaking backgrounds and have difficulty with complex written English documents.

6. Improved safety for passengers and drivers

6.1

All taxi permit holders, regardless of whether or not they are affiliated to an Authorised Taxi Organisation, must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.

6.2

Consistent with recommendations 3.2, 3.3 and 3.5, superior designed, purpose-built taxi vehicles should be encouraged to operate in the Victorian fleet to improve safety as well as accessibility. The Taxi Services Commission should conduct further research into the influence of the age of vehicles on safety to determine whether to retain and/or amend other taxi and BPO age limits in the future.

6.3

The requirement for driver protection screens should remain in place in the short term, but should be reviewed by the Taxi Services Commission after three years to consider the impact and performance of other safety measures that may replace the current screens policy (for example, the extent of take up of purpose-built taxi vehicles with in-built safety measures such as separate driver and passenger compartments).

6.4

The exemption for Victorian taxis from the mandatory use of child restraints should be removed. Taxis and Pre-Booked Only cabs should be responsible for managing the operational and service issues associated with supplying

appropriate child restraints for passengers. Where restraints are carried in a roof capsule, advertising should be permitted on the capsule (in line with recommendation 3.10).

6.5

The current Taxi Rank Safety Program should be extended for a further four years, and more 'safe city' ranks established in the Melbourne CBD and inner city locations.

6.6

The Victorian Government, with coordinated involvement from the Taxi Services Commission and other stakeholders such as Victoria Police, local councils, liquor licence holders, major events providers and the taxi industry, should develop statewide guidelines on establishing and operating safe taxi ranks, including addressing issues relating to:

- physical design and infrastructure needs
- accessibility requirements for passengers with a disability and reduced mobility
- operational requirements such as supervision and CCTV
- management of rank space for an expanded range of services
- the differing requirements for inner city, suburban and regional safe ranks
- clarity of funding arrangements for the ongoing investment in, operation and sustainability of, safe ranks

6.7

The Victorian Government, in conjunction with Victoria Police, the Taxi Services Commission and taxi industry representatives, should develop a strategy for reducing the incidence of criminal behaviour by passengers and community members affecting taxi drivers and their vehicles. This strategy should ensure better reporting, collection and analysis of relevant data and appropriate community behaviour change measures, including the possibility of increasing penalties for assaults on taxi drivers by adding drivers to the list of 'protected occupations'.

6.8

Regulatory impact statements should be completed as a mandatory requirement before decisions are taken in relation to the implementation of significant safety initiatives in the commercial passenger vehicle industry. In cases where government policy does not require a formal regulatory impact statement, as a minimum the development of the policy should be guided by a cost-benefit analysis which should be documented and ideally form part of the consultation process (refer Recommendation 10.14)

6.9

The Taxi Services Commission should undertake research into the performance of current safety initiatives and other potential safety-related measures and provide advice to the Government as necessary.

7. Empowering consumers

Public register of industry participants

7.1

The Taxi Services Commission should establish a Public Register of industry participants and make the register available on its website. The register should comprise the names of all approved drivers, permit holders and Authorised Taxi Organisations in the commercial passenger vehicle industry and give information about their business contact details, the services they operate (such as taxis, PBOs and/or WATs) and the numbers of vehicles attached to their permit. The Public Register should be updated in real time as new entrants are granted permits and/or issued licences.

7.2

Requirements for in-vehicle information (such as windshield stickers, placards and other signage) should be compatible with smartphone technology, such as the inclusion of a barcode that can be scanned by mobile phones and other portable devices. The Taxi Services Commission should take steps to ensure that, through this technology, passengers have direct access to the Public Register from the vehicle and, over time, access to information about service performance and driver quality.

Improving information and complaints services

7.3

The Taxi Services Commission should take a lead role in providing information to passengers about new services and other strategies that enhance consumer awareness and choice. This should include, for example, an education campaign on how to book PBO cabs, identifying approved PBO cabs and how to report illegal operators, as well as the rights and obligations of consumers and drivers at taxi ranks. The Commission should undertake community awareness and education campaigns in all practical media platforms to all demographics of the Victorian community. This will ensure passengers have a full understanding their rights and responsibilities under the law and how to access information about taxi and hire car services.

7.4

The Taxi Services Commission should conduct consumer research, including 'mystery shopper' inspections of services and waiting time surveys, on a regular basis and publish the results on its website.

7.5

Complaints about service delivery should be primarily the responsibility of service providers (that is, Authorised Taxi Organisations and permit holders) who will need to have appropriate procedures for dealing with complaints in place that are readily accessible to all members of the community. The Taxi Services Commission should monitor and report on the industry's complaints management performance and work cooperatively with Authorised Taxi Organisations to achieve desired performance outcomes, and publish results on its website.

7.6

The Taxi Services Commission should have clear and transparent policies and procedures relating to complaints about its own performance.

8. A new system of approval and responsibility

8.1

The current taxi industry accreditation scheme, which requires the accreditation of licence holders, operators and Network Service Providers, should be replaced with a new and more streamlined regulatory process that:

- removes accreditation for licence holders
- replaces accreditation of operators with a permit system
- replaces accreditation of Network Service Providers with a more limited approval process for Authorised Taxi Organisations

8.2

Existing taxi licence holders who have assigned their licence to an accredited operator under the current scheme should be permitted to continue to do so and should not be required to obtain a permit when continuing or renewing assignments. Licence holders and any relevant parties under the licence will be required to maintain up-to-date basic details (such as a name and business contact details) with the Taxi Services Commission, for the Public Register (Recommendation 7.1).

8.3

Persons who have obtained accreditation as a taxi operator or who have been granted a hire car licence under the existing scheme should be deemed to meet the new requirements and be issued with permit/s automatically.

8.4

Under the new approach, a permit should be issued to applicants who wish to operate a taxi and/or hire car service, and who satisfy the requirements of a character check (includes proof of identity and national police check).

Permit holders, once approved, should be able to purchase any number of taxi and/or hire car licences and registrations as they wish.

8.5

Permit holders should not be able to assign the rights of any new licences they purchase that are issued directly from the Taxi Services Commission. Therefore, they will be responsible for meeting the service standards applicable to their vehicles and the drivers they engage.

8.6

Service responsibilities that are currently imposed on licensees, operators and Network Service Providers (under legislation, regulation and licence conditions) and under the taxi industry accreditation scheme (via accreditation regulations, conditions and Business and Service Standards) should be streamlined and duplication removed. A Working Group comprising representatives of the Department of Transport, the Taxi Services Commission and industry representatives should be established as soon as possible to ensure this work is given high priority.

8.7

In addition to the entry requirements for Authorised Taxi Organisations outlined in Recommendation 4.2, minimum operating rules set out in regulation should include that they:

- actively monitor the performance of affiliated permit holders and drivers to ensure they adhere to appropriate safety and service standards
- implement customer complaint handling procedures that are in line with the Australian Standard AS ISO 10002-2006
- implement disciplinary procedures in relation to permit holders and/or drivers who fail to adhere to designated standards
- provide specified service delivery data to the Taxi Services Commission (for example, in relation to booking performance, fares, driver infringements and complaints) on all booked, rank and hail work provided by their affiliated fleet

Legislation should make clear the penalties, including fines, that apply for failure to comply with the minimum operating rules.

8.8

Authorised Taxi Organisations should be made subject to the consumer guarantee provisions of the Australian Consumer Law (ACL). The Taxi Services Commission should liaise closely with the Director of Consumer Affairs on the application of the consumer guarantee provisions to Authorised Taxi Organisations and the enforcement of the ACL more generally in the taxi and hire car industries. The Commission, in conjunction with Consumer Affairs Victoria, should also provide clear advice to the taxi industry on compliance with the provisions of the ACL.

8.9

In addition to the requirements proposed in Recommendation 4.1, the regulatory requirements for permit holders who opt to operate independently (that is, not affiliated to an Authorised Taxi Organisation) should include that they:

- implement customer complaint handling procedures
- display their business name and telephone number prominently on the exterior and interior of their vehicles

8.10

The Taxi Services Commission should, on a risk basis, focus a large part of its compliance activities in relation to service and safety performance on independent permit holders (given the absence of oversight by Authorised Taxi Organisations).

9. More accessible services

9.1

A Central Booking Service should be established for the Metropolitan zone, to provide a more efficient and customer responsive booking service for wheelchair customers.

9.2

An Advisory Group comprising representatives of the disability sector (including Scope, LINK Community Transport and the Victorian Council of Social Service), users of wheelchair taxis and the Taxi Services Commission should commence work immediately on considering models for the design and operation of a Central Booking Service for wheelchair accessible taxis (WATs). The objective of the Advisory Group should be to consider the features of a Central Booking Service which will make it customer responsive and enable it to gain the confidence of the disability sector. With the assistance of the Advisory Group, the Taxi Services Commission should consult widely on potential models for the operation of a Central Booking Service for WATs before determining the best way forward.

9.3

It should be mandatory for all Metropolitan-zoned WAT vehicles to be affiliated to the Central Booking Service and to accept bookings from that service. WAT permit holders should be allowed to affiliate to an Authorised Taxi Organisation as well, but should be required to always prioritise WAT bookings they receive from the Central Booking Service.

9.4

The Central Booking Service should work closely with the Taxi Services Commission and be required to provide performance data on a regular basis. The Taxi Services Commission should regularly report the performance results of the Central Booking Service.

9.5

The current contract between the Department of Transport and major Network Service Providers in the Metropolitan zone for the WAT Performance Based Booking System should be terminated and incentive payments made under that contract redirected to fund the Central Booking Service. The justification of the WAT Performance Based Booking Service in Urban, Regional and Country zones should be reviewed by the Taxi Services Commission in its first year of operation to assess whether the cost of the scheme is justified by improvements in booking performance.

9.6

The Multi Purpose Taxi Program (MPTP) should be expanded to provide the subsidy to individuals aged 80 years or over (subject to a means test) who have their private vehicle driving licences suspended by VicRoads as a result of a fitness to drive assessment.

9.7

All MPTP membership cards should include photo ID of the member to address fraudulent use of the program. The $16.50 card replacement fee currently charged to MPTP members should be abolished. All MPTP members should be provided with a Public Transport Access Travel Pass, which enables fully subsidised travel on Melbourne metropolitan trains, trams and buses, regional town buses and other regional transport services contracted by the Department of Transport. This may encourage greater use of increasingly accessible public transport services.

9.8

The WAT vehicle subsidy scheme currently available only to Country zone operators should be continued, and extended to include both Country and Regional zone permit holders (as per the new zoning arrangements set out at 1.6).

9.9

Licence conditions for all WATs should be aligned and placed in regulation. Only high occupancy vehicles should be required to have space for two wheelchairs.

9.10

The Department of Transport, with input from the Taxi Services Commission, should work with other relevant government departments to consider how the MPTP subsidy can best be targeted in future, including the ability of the frail elderly to access the scheme and the impact of possible fare deregulation in various parts of the State. This is in the context of the Victorian Government's recently commenced review of the Community Transport Program, the Australian Government's announced intentions for a National Disability Insurance Scheme (NDIS) and Victoria's contributions to the NDIS.

10. Improved regulation and a more effective regulator

10.1

For its next phase as industry regulator, the Taxi Services Commission should have a concise and high level objective modelled along the following lines: *In carrying out its functions, the Taxi Services Commission's objective is to promote the provision of customer responsive, safe, competitive, efficient and accessible commercial passenger vehicle services.*

10.2

The Taxi Services Commission should report annually to the Victorian Parliament on its progress in implementing agreed reforms arising from the inquiry.

10.3

The Taxi Services Commission should have a number of members on its governing Board, including a lead Commissioner (Chair) with capacity for up to two further Commissioners. Appointments should be made by the Governor-in-Council for a fixed term, with clear conditions on how these appointments can be terminated, preferably requiring the Minister to make the proposition before Parliament. The legislation should stipulate the skills and experience required for a Commissioner (skills considered more relevant are economic, competition, regulation and legal skills). Appointment of the Taxi Services Commission Chief Executive Officer should be on the recommendation of the Board.

10.4

The performance of the regulator should be subject to a regular review (for example, after five years in the first instance) to ensure that the objectives of the regulator are being attained and are still relevant. This should be carried out in an open and transparent manner.

10.5

The *Transport Integration Act 2010* (TIA) appears to have particular application to the transport portfolio generally including public transport. While the TIA policy framework and its considerations appear important, particularly in matters with general transport system impacts - such as integration with trains, trams and buses - care needs to be taken to ensure that its requirements do not impose overly onerous obligations on small specialist regulators such as the Taxi Services Commission. In particular, consideration should be given to adjusting the TIA's application to the Commission so that the Act applies to strategic planning and coordination decisions which might affect the transport system generally, rather than to 'ground level' operational activities such as deliberations by the regulator in matters of individual permission including issuing of licences, accreditations and permits.

10.6

All regulation affecting the small commercial passenger vehicle industry should be examined to ensure that, as far as possible, it is outcomes-based rather than prescriptive, enabling scope for regulated entities to find the most efficient ways of achieving the outcomes required and for the Taxi Services Commission to implement risk-based practice decisions in order to achieve its objectives. This should include:

- all existing taxi and hire car licences should have, as far as possible, consistent requirements that are provided for in regulation. The use of licence conditions should be reserved for very specific circumstances and generally only apply to particular individual permit holders
- the review of regulation should ensure that there are no unnecessary regulatory impediments to innovation, including the use of online and smartphone applications to provide taxi and PBO booking or payment services

10.7

The Taxi Services Commission should have flexible powers to ensure compliance with legislation, including powers to take administrative, civil and criminal actions as appropriate. The Commission should be empowered to undertake investigations and reviews of relevant aspects of its regulation, as necessary to enhance and pursue its objectives or as directed by the Minister. Further, the Commission should have the power to issue guidelines and make codes.

10.8

The Taxi Services Commission should encourage industry self-regulation where appropriate to achieve its objectives and assist in the development of industry codes of conduct.

10.9

The Taxi Services Commission should be provided with effective information gathering powers, including the requirement for all taxi permit holders to provide data on trips, shifts and fares direct from the taxi-cab to the Commission on a continuous basis, and for Authorised Taxi Organisations to provide specified service delivery data on a regular basis.

Improved regulatory practices

10.10

The Taxi Services Commission should formulate and apply a compliance monitoring strategy that:

- is based on transparent risk assessment methodologies
- can be implemented with available resources and with an acceptable level of residual risk
- recognises the costs it imposes on regulated entities

- is responsive to changing regulatory risks
- is documented
- is publicised externally to industry and other stakeholders

10.11

The Taxi Services Commission should ensure that its enforcement responses are flexible and targeted at the highest priority risks posed by non-compliance. The Commission's enforcement actions should be graduated and based on the principles that they:

- are proportionate to the risks posed by non-compliance
- recognise the capacity and motivation of non-compliant entities to return to compliance
- signal the seriousness with which it regards the non-compliance
- are timely

10.12

The Taxi Services Commission should develop and make public its rules, policies and guidelines for administering and enforcing regulations. The process of development of compliance policies should involve consultation with stakeholders and be conducted in a transparent manner.

10.13

There should be a transparent and accessible internal appeals process for decisions of the Taxi Services Commission relating to driver accreditation, permit holder approvals, Authorised Taxi Organisation approvals and disciplinary matters.

Consultation

10.14

The Taxi Services Commission should broaden industry consultation and engagement approaches to ensure they are effective in assisting the industry and other stakeholders to make the adjustments required under the reforms, and to facilitate ongoing stakeholder contributions to regulatory practices.

10.15

Formal memoranda of understanding should be implemented for the Taxi Services Commission's significant relationships with other regulators and statutory agencies such as Victoria Police, the Essential Services Commission, VicRoads, the Office of the Small Business Commissioner, Consumer Affairs Victoria and others.

10.16

Agencies should consider improvements to their consultation and relationships with the Taxi Services Commission and the taxi and hire car industry, including:

- Victoria Police should consider better ways to inform its officers of commercial passenger vehicle offences, the role of the Taxi Services Commission in regulating the industry and the need for police and Taxi Services Commission staff to work together to improve compliance outcomes. Victoria Police should also consider overseas models of cooperation between the police and taxi drivers in the detection and reporting of crimes observed by drivers, and any improvements to the timeliness of processing police checks for taxi driver applications that can be achieved
- Local governments should be given the opportunity to provide more formal and regular input to the Taxi Services Commission on managing future requirements for taxi ranks and rank congestion, and addressing transport options and public safety in late night entertainment precincts

- While it is not subject to State direction, the Victorian Government should encourage the Australian Competition and Consumer Commission (ACCC) to liaise much more closely with the Taxi Services Commission on competition issues within the commercial passenger vehicle industry in Victoria
- Again, while it is not subject to State direction, the Victorian Government should encourage Melbourne Airport and its terminal operators to instigate more formal and regular liaison with the taxi and hire car industry.

10.17

The Taxi Services Commission should ensure that it has a strong presence in both metropolitan and regional Victoria, focusing on more effective consultation and education with the industry and increased transparency of its regulatory activities.

10.18

Local governments should liaise with the Taxi Services Commission to resolve problems created by a lack of harmonisation of taxi and hire car regulation across state borders.

Funding

10.19

The Taxi Services Commission should be funded to a level that allows it to effectively and efficiently discharge its functions and responsibilities. In the short term, as has been forecast by its establishing legislation, the funding allocation currently provided to the Victorian Taxi Directorate should transfer to the Taxi Services Commission when it assumes the operational regulator role, and provisions for the transparency of funding in the Commission's establishing legislation should be retained.

10.20

In the longer term, taxi and hire car industry-specific regulation should be funded by the industry itself through licence fees and annual charges. As part of moving toward this goal, existing annual administrative fees charged to licence and registration holders should be reviewed.

10.21

A Litigation Contingency Fund should be established for the Taxi Services Commission so it can more smoothly manage its enforcement activities.

10.22

Revenue obtained from the sale of new taxi and hire car licences and registrations should be directed to industry reform and the delivery of better services to the community. This should include (but not be limited to) supporting the implementation of measures proposed in the Taxi Industry Inquiry's recommendations such as:

- introducing the independent examination of taxi drivers, the Metropolitan and Urban zone Knowledge exams
- continued support for safe ranks
- establishment of the Central Booking Service in the Metropolitan zone for WATs
- expansion of the MPTP to assist people aged 80 years and over who have had their private vehicle driver licence suspended by VicRoads
- provision of a Public Transport Access Travel Pass to MPTP members
- continuing the WAT vehicle subsidy scheme, and extending it to cover Country and Regional zone operators
- providing limited funding support for one or more community legal centres to continue to provide legal advice and representation for disadvantage taxi drivers, particularly in relation to Driver Agreement issues
- general funding of the Taxi Services Commission to ensure it is sufficiently resourced to undertake its task. A priority should be ensuring that the Commission's information and technology capabilities are adequate to allow it to produce industry performance intelligence, target regulatory and enforcement activities and, where possible,

move to online forms and payments systems to reduce costs for regulated entities. A data warehouse capable of collecting, storing, analysing and reporting on all commercial passenger vehicle industry data provided from taxi-cabs and Authorised Taxi Organisations, including MPTP data, should be established as an immediate priority of the reform program

11. New and more flexible taxi services

11.1 Legislation and other impediments associated with fare setting hindering the introduction of group hire services, such as share rides with flat fees and taxi shuttles, should be removed. In particular, the *Bus Safety Act 2009* should be amended to make it clear that a licensed taxi with 10 or more seats is not required to seek registration as a bus in order to operate 'set fare' or 'set route' services.

11.2 The Taxi Services Commission should consult with the taxi industry and develop and publish guidelines governing the operation of share ride schemes. Permit holders wishing to operate a share ride service should be required to notify the Commission with the details of their service in line with the published guidance.

11.3 Commercial passenger vehicle services should be more fully integrated with other transport services in policy and planning, as envisaged by the *Transport Integration Act 2010*. In particular, consideration should be given to funding or utilising taxis as a complement or alternative to community and public transport where there are (but not limited to):

- Service/s that are commercially viable for a taxi but not viable for a bus
- Service/s that are commercially viable for a taxi and a bus, but where the taxi is more economical and/or efficient than a bus
- Service/s that are not commercially viable for either a taxi or a bus, but where there is limited or no public transport available in an area, the relevant authority has determined a need for the service and a taxi is more economical and/or efficient than a bus.

11.4 The Department of Transport, with input from the Taxi Services Commission, should establish and lead a Working Party of representatives from each of the major government contract providers (for example, the Department of Veterans' Affairs, Department of Human Services and Department of Planning and Community Development in relation to community transport and Transport Connections programs) to standardise tender processes and raise awareness of commercial passenger vehicle services as a service option.

11.5 The Department of Transport should revise procurement policies to ensure that permit holders are able to compete for contract work where a public transport service is required.

11.6 The Victorian Government should adopt measures to increase the access taxis have to bus lanes along freeways and major roads. The use of lanes should be subject to a regulatory impact assessment process and monitored by the Department of Transport, Public Transport Victoria and VicRoads to assess the impact of changes on the performance of buses.

12. Fares

12.1 Taxi fares in Metropolitan and Urban zones should continue to be regulated in the short to medium term, and should change from being prescribed fares (fixed amounts) to maximum fares, giving permit holders and Authorised Taxi Organisations the ability to offer discounted rates below the maximum level to consumers.

12.2 Maximum fares should be determined by the Essential Services Commission (ESC). Fare reviews should be undertaken every two years, with the capacity to undertake interim reviews should certain cost thresholds (for example, LPG cost movements) be reached.

12.3 A Commissioner of the Taxi Services Commission should be appointed a member of the ESC for the purpose of assisting with taxi fare reviews and determinations for the first five years of taxi reform implementation. In addition, the ESC should be required to ensure its deliberations on fare setting have regard to the Government's broader taxi reform package and its progress in implementing these reforms.

12.4 A review of the taxi fare setting methodology should be commenced as soon as possible. The terms of reference should have regard to the views expressed by the Taxi Industry Inquiry on fare setting methodology, should take into account the differences in industry structure between the taxi industry and other utility industries regulated by the ESC, and should consider fare setting models that account for demand factors in a dynamic way.

12.5 Maximum fares should be recorded on the taximeter. Authorised Taxi Organisations (ATOs) and independent permit holders should be permitted to determine and advertise lower fares than the maximum (and these discounted fares will also be shown on the taximeter), and all taxis affiliated with an ATO should be required to adhere to that organisation's published rates.

12.6 In Regional and Country zones, where pre-booked services predominate, the Taxi Services Commission should be empowered to replace formal maximum fare regulation with a price notification and publication system, following the adoption of the licensing reforms proposed by the Taxi Industry Inquiry.

12.7 In areas where price notification applies, Multi Purpose Taxi Program (MPTP) passengers should have their subsidy component calculated on the Metropolitan zone regulated maximum fares rate.

12.8 Following the first three years of the reform program, the Taxi Services Commission should assess the extent and effectiveness of fare competition to determine if it is suitable to also move from maximum to notified and monitored fares in the Metropolitan and Urban zones. In making this assessment, the Commission should consider if all or part of these services are sufficiently competitive, particularly the pre-booked segment of the market.

12.9 Fares should be restructured to:

- Ensure changes in operators' returns due to the new Driver Agreement do not adversely affect services, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak)
- Increase the flagfall and reduce the price per kilometre for the Metropolitan zone to address the undesirable practices of short fare refusal and inefficient behaviour such as airport overcrowding
- Replace the 'Tariff 3' 50 per cent surcharge on the distance and time rate with a flat fee of between $10 and $15, which customers should be advised of when they book a higher occupancy vehicle or when they select one from a rank, such as at the airport
- Simplify 'multiple hire' fare charging to support the industry to offer more flexible, innovative shared ride type services (for example, by allowing flat fee amounts for passengers in a shared ride trip that total more than the meter) and include provisions for MPTP members to use their subsidy for shared rides.

13. Reducing the service fee for electronic payments

13.1 Barriers to entry into payments processing should be reduced, by changing arrangements for the Multi Purpose Taxi Program (MPTP) scheme and changing the approvals process for EFTPOS devices in Victorian taxis.

Regulations and the unique requirements mandated by the regulator for EFTPOS terminals should be rationalised and all taxi-specific requirements for mobile EFTPOS terminals removed as part of a transition to an industry certification framework. This should commence immediately and replace the current approval of this equipment by the State. During the transition to the new certification framework, minimal taxi-specific requirements for those EFTPOS terminals that are hard-wired (fixed) to other in-cab equipment should be retained.

13.2 A new standard should be established for the processing of MPTP cards and this should be made available to future card payment providers. This would involve allowing any EFTPOS terminal to process MPTP cards by permitting taxi fare data to be acquired by EFTPOS terminals via newer 'cloud' technologies, rather than only via the current requirement of a hard-wired link with the taximeter. The new standard should be sufficiently technically robust to control fraud under all operating conditions. Adoption of this recommendation will require a formal design evaluation and commercial procurement diligence, prior to implementation.

13.3 The 10 per cent service fee levied on the processing of electronic payments should be brought under regulation and set at a level that better reflects the resource costs of providing the service. The inquiry recommends this fee be set at five per cent of transaction value as a maximum amount that can be charged, until subject to a further evaluation by the Essential Services Commission.

13.4 More broadly, if payments processors continue to have difficulty in obtaining access to Cabcharge payment instruments, the Victorian Government should ask the Reserve Bank of Australia to consider designating Cabcharge as a payment system and impose an access regime requiring it to give access to payments processors on reasonable terms.

13.5 Removal of the service fee regulation applying to the processing of electronic payments for taxi fares should occur when competition is more effective in this area.

1 Introduction

1.1 Inquiry background

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

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

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

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

1.2 Scope of the inquiry

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

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

1.2.1 Terms of Reference

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

Terms of Reference

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

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

1 Office of the Premier of Victoria, Media Release (28 March 2011), 'Taxi services reform to commence with industry inquiry'
2 Copies of these Acts are available at the Victorian Legislation and Parliamentary Documents website: www.legislation.vic.gov.au

- Sustainability, in economic, environmental and social terms.

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

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

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

The Commission must prepare a Final Report and make recommendations focusing in particular on the following:

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

1.2.2 Issues leading to the inquiry

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

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

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

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

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

> *Victorians are fed up with the never-ending problems in the taxi industry and the appalling reduction in levels of service over recent years … While many taxi operators and drivers do a good job, the problems driving customer dissatisfaction are clear: the long queues for a taxi in the Melbourne CBD and other entertainment districts on a Friday or Saturday night, drivers who do not know where to go, taxis that do not turn up, drivers who will not accept a short fare, violent incidents and unsafe behaviour.*
>
> *Victorians are embarrassed when a dirty taxi or a poorly trained driver gives international visitors an unfavourable first impression of Melbourne. They are angry when they hear that taxi licences cost up to half a million dollars while taxi drivers are earning less than the minimum wage.*[4]

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

There has also been a significant increase in formal passenger complaints about taxi services lodged with the Victorian Taxi Directorate in recent years, with the number of complaints trebling between 2004 and 2010.[5]

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

1.3 The inquiry's approach

In accordance with its Terms of Reference, the Taxi Industry Inquiry has adopted a strong focus on the performance of the taxi and hire car industry. Poor service performance, in particular, was a key reason for the inquiry being established. Concerns were also expressed about the adequacy of the industry's performance in protecting the safety of taxi users and drivers. Accordingly, an important focus of the inquiry has been to understand what lies behind this poor industry performance.

From the outset, the inquiry's view has been that fundamental reform, as sought by the Victorian Government, is not possible without understanding the nature of the problems confronting the industry. Industrial organisation economists use a 'Structure Conduct Performance' framework to help to explain industry performance. This framework, which acts as an aid to analysis, has assisted the inquiry in its work. Put simply, the framework postulates that industry performance will be strongly influenced by the conduct of firms in the industry as well as by consumers and that, in turn, this conduct will be strongly affected by the structure of the industry. 'Structure' covers aspects such as the number, size and distribution of existing firms and the barriers to entry to the different market segments within the industry. Together, these elements have a significant influence on the competitive environment within an industry.

The inquiry has found that the most important element of industry structure influencing the performance of the taxi and hire car industry is the government regulation specifically related to the industry. This industry-specific regulation has essentially determined the competitive environment, which in turn, has influenced business conduct and industry performance. Therefore, reform of regulation has become the core focus of the inquiry.

In reviewing taxi and hire car industry regulation, the inquiry has been very mindful of applying the principles of best practice regulation agreed to by the Council of Australian Governments (COAG) and embodied in the *Victorian Guide*

4 Parliament of Victoria, Legislative Assembly, 2 June 2011

5 See chapter 5 of the inquiry's Draft Report

to Regulation.[6] Under these principles, regulation needs to be justified on the basis that it provides net benefits to the community (where the benefits to all groups in the community outweigh the costs involved). Further to this is the notion that regulation should be used only when it is the best means of achieving the objectives sought – that is, it provides the greatest net community benefits of all feasible policy alternatives, including non-intervention.

Other aspects of good regulatory design include that the regulation is in proportion to the problem it addresses, particularly in respect to enforcement and compliance. Regulation should be flexible and allowance should be made for change. The inquiry has also maintained consistently that policy and regulation development should be open and transparent, and that the regulator should adopt a comprehensive engagement strategy.

Good regulatory principles also require that regulation and its application are consistent and predictable. For too long, the regulation around taxis and hire cars has been a patchwork of ad hoc remedies that offers no coherent vision for the industry, let alone a clear path to achieving such a vision. The inquiry's recommendations are designed to form an integrated package of reforms that will hold together as a single, consistent regulatory framework.

The inquiry's approach has also been guided by the view that, while regulators should encourage a cooperative compliance culture within the regulated industry (and this can be achieved through the involvement of the industry in the design of regulation), the growing importance of the market as a discipline in the taxi and hire car industry will act with greater surety than any imposed regulation. To this end, the inquiry's recommendations aim to deliver a larger role for markets and competition within the industry and a bigger role for industry self-regulation.

Alongside this core focus on regulatory reform, the following principles have guided the inquiry's work:

- Public interests are at the forefront of the inquiry's analysis and recommendations, particularly the interests of current and potential consumers of taxi and hire car services
- Regulations that are not necessary to protect the public interest should be removed to reduce the regulatory burden on the industry
- Reforms proposed by the inquiry should support an efficient, competitive and innovative industry
- Reform must be evidence-based and practically achievable within a reasonable timeframe.

1.4 The inquiry's methodology

The inquiry used a number of methods to develop a clear understanding of what Victorians need and want from taxi and hire car services, the unmet demand for these services and whether better and new services are being hindered by the current regulatory regime governing the industry. The structure of the inquiry's Draft Report reflected the approach adopted by the inquiry in conducting its investigation:

- Understanding the current structure and operation of the industry (see Part B of the Draft Report)
- Identifying problems within the industry and exploring their underlying causes (Parts B and D)
- Examining the reform approaches adopted in other jurisdictions (Part C)
- Identifying the current regulatory framework and the role of the industry regulator, and analysing the case for regulation of the industry (Part C)
- Understanding the impact of regulation on the industry's performance (Part D)
- Seeking the views of taxi customers and the broader community on what they want from taxi and hire car services, and canvassing industry views on how the industry's performance can be improved (Part A)
- Identifying those aspects of the industry that should be regulated to improve performance and deliver services that meet customer and community demand, and recommending a strategy for reform to improve service and other outcomes (Part E).

The inquiry drew on previous studies covering aspects of the taxi and hire car industry and commissioned original research in a number of areas: consumer attitudes to taxis and hire cars (Ipsos Social Research Institute), consumer

6 See chapter 22 of the Draft Report for a more detailed discussion about the principles of best practice regulation

detriment (Latitude Insights), demand for taxi and hire car services in Melbourne (The Hensher Group), driver status and driver-related issues (Hara Associates), taxi information systems (Rhumb Consulting) and overseas experiences with taxi and hire car regulation (Jaguar Consulting).[7] The inquiry also conducted its own research and analysis, and undertook detailed modelling using data and information collected from the industry.[8]

The inquiry developed and implemented a comprehensive community engagement strategy to ensure that as many Victorians as possible had an opportunity to contribute their views on the future of taxi and hire car services. The strategy included seeking formal submissions from the Victorian community, distributing customer and industry surveys, conducting visits and consultations across the State, and hosting specialised forums for taxi drivers, hire car operators and mobility disadvantaged taxi users. The inquiry released a major background paper, *Setting the Scene,* several issues papers and a number of technical reports. Active social media platforms were maintained for the duration of the inquiry.[9]

1.5 Inquiry activities since the Draft Report

The inquiry's Draft Report *Customers First: Service, Safety, Choice*, was released on 31 May 2012 for public consultation and comment.

1.5.1 Submissions and consultation

In some areas, the inquiry's draft recommendations gave a clear indication of the inquiry's thinking; in other areas, the inquiry sought further data, information and comment before settling on a final position. The inquiry invited formal submissions on its draft recommendations, as well as encouraging comments on any issues and options covered in the draft recommendations or related to the inquiry's Terms of Reference. The inquiry also published and distributed an online template that allowed respondents to indicate their support for or opposition to the draft recommendations.

Submissions were received by the inquiry between 31 May and 13 July 2012. Submissions could be provided to the inquiry online or forwarded by email or mail in electronic, paper, audio or video formats. Guidelines on making a submission were published on the inquiry's website. In line with the inquiry's commitment to transparency and openness, all submissions received were considered public and posted on the inquiry's website (confidential submissions were not accepted or considered by the inquiry) .

Organisations or individuals who provided a submission to the inquiry by the required date were able to register an interest in speaking to their submission at inquiry hearings. These hearings were held on 13 and 14 August 2012 at which 26 presentations were made by stakeholders. The inquiry determined which parties were invited to make submissions at the hearings. All hearing sessions were streamed live via the inquiry's website and video recordings and written transcripts of proceedings were made also made available through the website.

The inquiry received a total of 1,370 submissions following the release of its Draft Report: 150 submissions were received from organisations and companies, with the balance coming from individuals. Submissions were received in the online template provided by the inquiry, in emails and letters. The number and format of submissions received is summarised in Table 1. There is some duplication of submissions as some industry participants provided a submission in all three formats. All public submissions are available at the inquiry's website.

Table 1 Number of submissions received (by format)

Format	Number
Online	696
Email	495

7 Commissioned research papers are available at the inquiry website.

8 Chapter 2 of the Draft Report sets out the inquiry's approach to collecting information and data, and the difficulties it encountered in obtaining comprehensive and accurate data

9 Appendix A of the Draft Report contains details of the inquiry's community engagement strategy

Letter (paper)	179
Total	*1,370*

Table 2 sets out the composition of responses by category of stakeholder, showing a strong response from businesses in the taxi and hire car industry.

Table 2 Composition of submissions received (by stakeholder category)

Stakeholder category	Number
Taxi and hire car industry companies	77
Organisations/associations of taxi and hire car industry participants	9
Community organisations of taxi users	13
Non-taxi industry organisations and businesses	14
Local councils	3
State Government agencies	4
Others, including individual licence holders, operators, drivers and taxi users	1,250
Total	*1,370*

The inquiry received an influx of online and email submissions from licence holders in the final week of the consultation period following a meeting of industry participants organised by the Victorian Taxi Association (VTA) and Taxi Industry Stakeholders Victoria (TISV).[10] In addition to submissions from individuals and organisations, the inquiry also received a petition organised by TISV signed by 1,171 persons.

The inquiry met directly with key stakeholders to discuss its draft recommendations during the period between the release of the Draft Report and the completion of the Final Report. The inquiry also attended a forum co-hosted by the Disability Advocacy Resource Unit (DARU) and VCOSS in July 2012 to hear feedback on the Draft Report from taxi users with a disability.

1.5.2 Further work undertaken by the inquiry

The inquiry has refined and modified a number of its draft recommendations to take into account new information provided through submissions and consultations since the release of the Draft Report. In some instances, this has required the inquiry to conduct further research and analysis or to seek additional data and information from the industry and the regulator.

Key further work has included:

- Identifying the impacts of reform on affected groups (see chapter 16)
- Developing a path of transition for the industry from the old regime to the new (chapter 17)
- Further modelling of the effects of licensing reform and of changes in driver remuneration to ensure that the reforms are affordable to taxi operators and beneficial for consumers (Annex).

10 TISV is a new organisation established during the life of the inquiry 'to act in the interests of the Victorian taxi industry'.

1.6 Guide to the Final Report

The inquiry's Final Report is both a record of the inquiry's deliberations since the release of the Draft Report and a statement of the inquiry's final findings and recommendations to the Victorian Government.

1.6.1 Status of Draft Report and relationship to Final Report

The inquiry's Draft Report stands as the formal record of:

- The conduct of the inquiry from its commencement on 12 May 2011 to the release of the report on 31 May 2012
- The information obtained by the inquiry and considered up to 31 May 2012 in responding to the Terms of Reference set by the Government
- The inquiry's primary analysis of the issues it is required to address
- The inquiry's preliminary conclusions and recommendations.

The Draft Report should be seen as the foundation for this Final Report. This report does not repeat the inquiry's detailed analysis set out in the Draft Report; rather, it concentrates on industry and community responses to the draft recommendations and the inquiry's re-consideration of issues, including revisions or additions the inquiry has made to its findings and recommendations. This report also discusses further work carried out by the inquiry since the release of the Draft Report and the inquiry's assessments and conclusions regarding some issues that were either not addressed in the Draft Report or only explored to a limited extent.

Generally, this report does not discuss recommendations that are unchanged or modified slightly from the Draft Report. It also does not revisit issues that attracted no or very little comment, are the subject of almost universal agreement or are largely uncontroversial or uncontested in submissions and responses. Readers seeking greater detail or more in-depth information about particular issues should refer to the relevant sections of the Draft Report.

1.6.2 Guide to this Final Report

This Final Report is structured as follows:

Chapter 2 provides an overview of the key findings and proposals contained in the Draft Report and the major components of the draft reform package.

PART A: increasing and improving supply

Chapters 3 to 6 canvass issues relating to taxi licensing and zones, hire cars, vehicles and taxi networks. Each chapter summarises the inquiry's views and recommendations as expressed in the Draft Report, sets out specific concerns, issues and points of disagreement raised in submissions and provides the inquiry's response to these submissions. Final recommendations for each of these areas are included at the end of each chapter.

PART B: Restoring consumer trust

Chapters 7 to 11 canvass issues relating to drivers, safety, responsibility for performance, accessible services and improved regulation. As noted above, each chapter summarises the inquiry's views in the Draft Report, sets out concerns raised in submissions, gives the inquiry's response to these concerns and lists the final recommendations.

PART C: Boosting demand and competition

Chapters 12 to 14 discuss issues around new and more flexible services, taxi fares and payment systems. These chapters also adopt the same structure as in Parts A and B.

PART D: Implementing reform

Chapter 15 discusses the specific implications for the proposed regulatory reforms in country areas.

Chapter 16 assesses the impacts of the reforms on commercial passenger vehicle industry participants and suggests appropriate policy responses to address adjustment issues.

Chapter 17 sets out a possible sequencing for implementing the proposed reforms and discusses issues in making the transition from the current regulatory scheme to the new scheme.

2 Developing the inquiry's vision for the industry

The Draft Report set out the inquiry's vision for the commercial passenger vehicle industry in the *Overview* and chapter 23: *A new direction*. In developing this vision, the inquiry drew on the results of consultation with industry stakeholders, an extensive community engagement program, commissioned research, the inquiry's own research and analysis and independent assessment. This work resulted in the inquiry being able to collate and analyse more data and information about the Victorian taxi industry than any previous investigation.

The Draft Report set out a comprehensive analysis of the industry's present structure and circumstances, the current problems confronting the industry and options to secure its future. This chapter summarises the inquiry's findings and provides a broad overview of responses to the inquiry's draft recommendations. Further details of responses to the Draft Report are set out in chapters 3 to 15.

2.1 Key problems identified

The Draft Report identified the inquiry's findings in relation to the key problems associated with the taxi and hire car industry. In line with its Terms of Reference, the inquiry focused on an assessment of service outcomes and the current structural and regulatory issues that contribute to unsatisfactory outcomes. These problems, and the inquiry's draft proposals to address them, are summarised in this section. Readers seeking more information on the evidentiary foundation and analyses underlying the inquiry's conclusions should refer to the relevant chapters of the Draft Report.

The inquiry found unsatisfactory service outcomes for metropolitan Melbourne taxi users, most notably:

- Drivers lacking knowledge, experience and a customer service orientation
- Shortages of taxis at peak times and in some locations
- Unreliable taxi booking services from networks
- Unsatisfactory provision of services for taxi users with a disability.

The inquiry identified structural and other features that contribute to poor service outcomes, including:

- Restrictive taxi licensing
- Extensive separation of taxi licence ownership from service provision, through licence assignment by passive investor-owners and a consequent lack of interest in service quality
- Concentrated network service providers deriving income from mandatory operator affiliation fees with little incentive to provide good service to taxi operators or taxi users
- A general lack of competitive pressures in the industry, which stifles innovation and facilitates the continuation of poor service delivery for taxi customers
- Misdirected, and often excessively burdensome, industry regulation which contributes to the problems confronting the industry.

Other key problems are:

- Ongoing serious concerns about the safety of taxi drivers
- Restrictive regulations covering the types of vehicles that can be used as taxis and hire cars
- Poor availability of taxi and hire car services in small towns and more remote locations.

2.1.1 Unsatisfactory service outcomes for customers

Taxis

The inquiry was instigated by the Victorian Government largely as a result of growing public concerns about poor levels of service, especially relating to taxis. The evidence presented in the Draft Report – particularly the inquiry's

commissioned consumer research findings – clearly supported these concerns and highlighted many of the factors that contribute to poor service.

The inquiry found widespread customer dissatisfaction with the quality, reliability, cost and availability of taxi services. Many concerns raised in submissions and consultations leading up to the preparation of the Draft Report related to well-publicised issues. In addition, the inquiry's commissioned research on consumer detriment estimated the financial and time cost of poor taxi services over the previous 12 months to be around $133 million.[1]

Generally, taxi users feel there is room for significant improvement in taxi services in relation to the reliability and timeliness of booked services, the quality of drivers and the availability of cabs during peak periods and in outer metropolitan areas, large regional centres and small country towns.

Research commissioned by the inquiry found that the average customer satisfaction rating with taxi services was 5.4 out of 10. Over one third (39 per cent) of taxi users reported having had a problem with taxi services in the last 12 months. More than half (52 per cent) of these problems related to 'unprofessional driver conduct', while other problems related to 'route issues', driving infringements, fare refusals and issues relating to fares.[2]

The inquiry found that, in the context of the service quality commonly experienced by taxi users, the current level of taxi fares was not widely perceived as representing good value to consumers. Furthermore, work commissioned by the inquiry indicated that consumers are sensitive to fare levels, suggesting that future fare increases without improvements in quality will lead to fewer trips overall and less total revenue for the industry.[3]

Hire cars

Hire cars in Victoria mainly operate at the premium or luxury end of the commercial passenger vehicle market, providing a superior level of service at a higher price than taxis, particularly to the business and tourism markets. The nature and characteristics of the hire car sector – a reliance on repeat business, small fleet sizes and a majority of demand coming from business/corporate users – mean that operators place great emphasis on the quality of their drivers, services and vehicles.

The inquiry found high levels of customer satisfaction with hire car services and a growing number of consumers using hire cars due to quality concerns with taxis. The Draft Report noted that hire car licence categories and conditions, operator requirements and vehicle restrictions are complex, outdated and burdensome, act as barriers to entry and are difficult to enforce. Problems associated with illegal practices, such as touting, arise largely as the result of these shortcomings in the regulatory framework.

2.1.2 Low taxi driver quality

The inquiry found satisfaction with taxi drivers in Victoria is low, with complaints and concerns about driver quality and behaviour in a range of areas. The most common issues identified in the Draft Report were drivers with poor local knowledge, short trip fare refusals, poor personal behaviour (such as drivers being discourteous, unhelpful or rude), unsafe driving practices and dirty cabs.

As poor experiences with taxi travel are most often associated with poor quality taxi drivers, addressing this issue is a priority for achieving improvements in taxi services. Higher quality driver service will lead to higher customer satisfaction.

The inquiry found that the taxi industry relies on being able to readily recruit large numbers of drivers and has generally been able to meet its requirement for drivers due to relatively low barriers to entry. However, the industry struggles to retain experienced drivers, with the predominant reason almost certainly being poor remuneration and

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

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

3 Full details of the results of this work are set out in The Hensher Group Pty Ltd (2012), *Demand for Taxi and Hire Car Services in Melbourne – Prepared for the Taxi Industry Inquiry*, Melbourne. This report is available at the inquiry's website. The Ipsos Social Research Institute (2012) work also found that more than 30 per cent of non-taxi users nominate cost as the main reason they do not use taxis.

working conditions. The industry told the inquiry that there is currently a 'driver shortage', which has an impact on operator revenue. But new entrants are unlikely to be attracted to the industry while pay and conditions remain poor relative to other occupations, driver safety continues to be a serious concern and public perceptions of driver quality are low.

While driver remuneration is unlikely to be as poor as sometimes publicly quoted, the inquiry estimated that the average hourly rate for a Melbourne-based driver is $13, from which allowance must be made for income tax, holiday and sick leave, superannuation and sometimes vehicle-related expenses. Driver remuneration is low compared to the national minimum wage and the vast majority of drivers do not receive holiday or sick pay. High taxi licence prices also make it very difficult for drivers to obtain a licence and operate their own taxis.

While poor driver pay and working conditions are not in dispute, many in the industry do not see this as contributing to the shortage of quality drivers. Rather, they blame externally-imposed restrictions on the supply of drivers, such as changes to student visa laws and the refusal of the Victorian Government to increase taxi fares. However, the inquiry found some acknowledgement within the industry that a fare increase will not have the desired effect on driver retention if other complementary measures are not taken to lift taxi occupancy rates and increase the probability of drivers gaining some of the fare increase as higher earnings.

The inquiry found that bailment arrangements are an unfair way of 'engaging' taxi drivers, actively seek to prevent drivers from being engaged as employees and have allowed the industry to avoid improving the pay, service performance and conditions of drivers in any substantial way. A number of drivers are unaware of their entitlements under these arrangements and are paying unnecessarily for personal injury insurance cover for work-related incidents. The inquiry also heard of instances where drivers are incurring excessive costs associated with vehicle insurance and excess payments following vehicle collisions.

2.1.3 Restrictive taxi licensing

The inquiry reported that licensing regulations have a range of effects on how the taxi and hire car industry is organised, as well as on the conduct of licence holders and other industry participants. Consequently, they have a significant impact on the outcomes and performance of the taxi services market.

Key problems with current licensing arrangements are:

- The regulatory quantity restriction leads to a scarcity of licences
- The ability to lease ('assign') licences leads to the separation of the ownership of licences from the delivery of taxi services to customers and adds a significant additional cost in providing services
- The scarcity of licences, combined with the ability to sell or assign them, means they attract a significant value. This value has been increasing steadily since 1980, as has the assignment cost component of operating taxis.

In contrast to most licensing schemes for businesses in other services sectors, taxi licences in Victoria are not issued to all persons who can meet defined minimum standards. Taxi licence numbers are limited by government regulation. In other words, the scarcity of licences arises not from any market discipline, but purely from government policy.

Assignments were introduced in 1981 to, in the words of the then Minister of Transport, "allow the [Transport Regulation] Board to give the owner or his widow the alternative of being able to lease the business…without having to manage the day-to-day operation of a taxi-cab".[4] In other words, the original focus was on relieving *existing* taxi owner-operators who were affected by age, infirmity, widowhood and other circumstances from the day-to-day business of operating taxis. Assignments were not widely available until the recommendations of the Foletta report were implemented in the late 1980s. However, assignments are widespread now in metropolitan Melbourne, with taxi licences largely having become an investment product for their holders. Approximately 81 per cent of taxi licences in metropolitan Melbourne that can be assigned (that is perpetual licences, which account for 70 per cent of Melbourne

4 Hon. R Maclellan, Minister of Transport, 2nd Reading Speech, Transport Regulation (Assignment of Licences) Bill, Legislative Assembly, Hansard, 13 November 1980, p. 2,800

licences) are assigned. In part, the increasing value of licences can be attributed to their transferability through both sale and assignment.[5]

Licence assignments also have a significant influence on the market structure for the delivery of taxi services. Assignments allow a separation between licence holders and taxi operators, with many licence holders having no direct interest in the delivery of services. In these cases, owners become passive investors. This is likely to have contributed to a decline in service standards, particularly in Melbourne.

Restrictions on licence numbers generate a number of detrimental effects that are costly for consumers, while the benefits of these restrictions accrue to licence holders, and not to taxi operators or drivers. Operators are subject to demands by licence owners for significant and increasing fees for assignments. In circumstances where there have been no fare rises for several years (and options for operators to grow their businesses are limited), this places operators under significant additional financial pressure.

2.1.4 Poor services from networks

In Victoria, the centralised booking and dispatch of taxis is delivered by companies known as Network Service Providers (NSPs). There is considerable consumer dissatisfaction with the quality, reliability and accountability of these booking services. The inquiry found that Government intervention in the form of the taxi industry accreditation scheme has failed to result in measurable improvements in these services and that the objectives of accreditation have not been achieved.

Specific customer concerns raised with the inquiry regarding the performance of NSPs include:

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

NSPs have the ability to improve their services, but have little incentive to do so as they face limited competition and are not directly affected financially by poor service performance. The current high barriers to entry in becoming a new NSP prevent new competitors from emerging and deliver minimal benefit to taxi users, taxi operators or taxi drivers.

The impacts of this constrained competition are exacerbated by the regulatory requirement for all taxi operators to be affiliated with an NSP. The current fee structure for affiliation is inefficient and is a result of the imbalance of bargaining power between suppliers (NSPs) and consumers (taxi operators) in this market. This adds further to the cost pressures on taxi operators.

By contrast, there are high levels of satisfaction with the performance of secondary networks, with many regular taxi users reporting that they ‘bypass’ the large NSPs in favour of these networks for benefits that include having confidence that a pre-booked cab will arrive on time and having access to regular and trusted drivers.

2.1.5 Accessibility difficulties for some taxi users

‘Accessibility’ encompasses a range of issues that affect the extent to which taxi services are available to as many people as possible. It includes physical access to taxi vehicles and systems, as well as service availability, affordability and discriminatory behaviour.

While the Draft Report acknowledged that taxi services for people with a disability have improved in recent years, significant concerns remain. People with a disability experience poor and unreliable taxi services more frequently and

5 A discussion and timeline of the history of taxi licensing is set out in chapter 6 of the Draft Report.

with more serious consequences than other taxi users. In a number of critical areas, these taxi users feel strongly that the standard of service they receive falls well short of the service available to others in the Victorian community.

Many of these taxi users report unsatisfactory experiences with drivers, including rude and discourteous drivers, drivers with poor communication skills and drivers unable to secure wheelchairs correctly. There is widespread dissatisfaction with taxi booking services, with reports of unacceptably long wait times for WATs, taxis frequently failing to turn up altogether and services being cancelled at the last minute despite being booked many hours or even days in advance. There are limited offerings within the booked taxi market for users with a disability to indicate their special needs and request a driver who is willing to provide appropriate assistance. These shortcomings have led to mobility disadvantaged consumers largely losing confidence in the taxi system, with frequent users avoiding the booking services of the large NSPs altogether in favour of private arrangements with trusted drivers and secondary networks.

While the inquiry found that the proportion of WATs in the Victorian taxi fleet is adequate, better organisation of the WAT fleet is needed to improve taxi accessibility for people who use wheelchairs. The introduction of the WAT Performance Based Booking System has not made significant inroads into wait times in metropolitan Melbourne and the substantial incentive payments made by the Victorian Government to NSPs under the scheme are not achieving sufficiently strong results to justify the cost.

2.1.6 Safety concerns of taxi drivers and users

While Victoria's taxi industry is perceived as having a relatively good record of passenger and driver safety overall, serious concerns remain. Taxi driving continues to be a risky and sometimes dangerous occupation. Feedback from taxi drivers to the inquiry indicated that many drivers have been involved in a situation where they have felt unsafe on the job, with incidents ranging from intimidation and verbal abuse from passengers to serious physical assaults. Understandably, many taxi drivers feel less safe driving at night. Passengers are often unknown quantities for taxi drivers and many drivers feel that alcohol fuelled anti-social behaviour is making their jobs more difficult than ever.

Existing driver safety measures, such as cameras, protection screens and duress alarms, are delivering mixed results, but do not appear to be providing adequate protection for drivers in many instances – despite involving the industry in significant additional costs.

Taxi customers have concerns about unsafe driver practices, including poor driving skills and poor adherence to the road rules, such as driving while talking on the phone, speeding and not wearing a seatbelt.

In addition, a number of taxi users reported experiences where they have felt unsafe, scared or directly threatened by a driver, especially when travelling alone. A related issue is that some passengers feel less safe when they cannot readily identify the driver and the vehicle. Identification is often poorly displayed and difficult to read. Taxi users – and a number of businesses and local councils – have also told the inquiry that short fare refusals and the poor availability of taxis at peak times exacerbate safety issues by leaving people with limited options to get home.

2.1.7 Country and regional issues

Generally, the inquiry found much higher customer satisfaction with country taxi services – including driver and service quality – than in Melbourne. While some of the problems relevant to metropolitan Melbourne taxi and hire car services also apply to country services, the latter present a different set of issues relating to service availability, accessibility and affordability, safety, competition and integration with other transport services.

Transport needs – and the delivery of taxi and hire car services – also vary from town to town and region to region. Country markets rely on around 90 per cent pre-booked work, which is a significantly higher proportion than in Melbourne. Service quality provided by drivers is a point of difference between regional and metropolitan markets, indicated in the more positive views on service quality by regional respondents to the inquiry's customer survey.[6] On

6 Ipsos Social Research Institute (2012), Op.Cit.

the supply side, a major city-country difference is the much higher proportion of taxi licences operated by their owners in regional Victoria compared to Melbourne.[7]

Retention and recruitment of quality drivers is a major problem for country and regional services (as it is in Melbourne). Most operators consulted by the inquiry suggested the shortage of drivers is the biggest issue facing taxi services in regional Victoria. Long wait times for police checks and low remuneration for drivers are considered the main causes of this problem.

Access to transport is a significant factor in accessing services, activities and opportunities in regional areas. Taxis and hire cars play a bigger role in reducing social exclusion and isolation in regional Victoria than in metropolitan Melbourne. Poor availability of transport services, particularly in small towns and more remote locations, is a major issue in many parts of Victoria. Hire cars are the only form of public transport in some parts of regional Victoria and services are often established in areas or towns where there are no taxis operating. In these areas, hire cars often perform a similar role to taxis.

Despite concerns about the poor availability of taxi services in a number of regional areas, the application of the public interest test to the release of new licences has stifled entry into these markets, further restricting consumer choice and service availability.

Higher input costs involved in running a taxi business in the country – including higher network service charges and higher fuel costs – offset lower assignment costs to a significant degree. Regulations that require taxis to be painted yellow, restrictions on advertising and the Victorian Government's subsidisation of bus companies to provide fixed-route transport services (without recognising taxis' community role) contribute to country operators' viability concerns. Current regulations also restrict entry, competition and innovation in the regional taxi and hire car markets.

2.1.8 Misdirected regulation

The legislative scheme for the regulation of the taxi and hire car industry is complex and very prescriptive. More fundamentally, the regulatory regime contains features that prevent or hinder competitive processes operating in the taxi and hire car industry. Many of these have little or no clear net benefit for consumers (in contrast to the evident benefits to some incumbent industry participants); others may contribute to detrimental outcomes for consumers:

- Restrictions on taxi licence numbers generate a number of detrimental effects that are costly for consumers, including supply shortages at peak times of the week. The benefits of these entry restrictions accrue to licence holders in the form of higher licence values, not to taxi operators or taxi drivers.
- The regulator has not had access to the information it needs to regulate the number of taxis effectively under the current regulatory structure. This means there are serious doubts that the restrictions on taxi licence quantities produce the right number of taxis to serve consumer interests.
- Taxi and hire car licence conditions contain a number of provisions that have the effect of restricting competition between taxis and hire cars (and between taxis and hire cars and other forms of transport). Regulation of hire car vehicle standards also restricts competition between hire cars and taxis.
- Livery restrictions, including the uniform yellow colour requirement and the prohibition on advertising on taxis, add costs to the industry and reduce competition.
- The application of the 'public interest test' to the issuing of licences does little to enhance service performance for users in country markets where alternative public transport options are also often severely constrained. Where new licences are approved, they have generally gone to existing NSPs, further reinforcing the perception of the industry as a 'closed shop'. The public interest test works in conjunction with zoning restrictions to restrict competition and maintain the viability of existing operators, whether or not they are providing efficient services to customers.
- The complexity of the regulatory regime makes it difficult for industry participants to ensure they are fully compliant with all their legal obligations and generates unnecessary cost burdens for the industry and the

7 Around 81 per cent of assignable taxi licences in metropolitan Melbourne are now assigned, compared to 26 per cent of assignable regional (Country and Urban zone) taxi licences (from licence data provided by the VTD).

regulator. In some instances – most notably around safety-related regulations – costs are imposed on the industry despite little verifiable data about the benefits accruing to customers, drivers and operators.

- Despite covering a wide range of matters, the regulatory regime has little clarity of purpose or direction, including having no clearly identified policy objectives for taxi and hire car services.

The inquiry also examined barriers to entry to payment instruments and payment processing that have been created by government policies that allow Cabcharge to be the sole provider of data collection services for the Multi Purpose Taxi Program (MPTP) and the approvals process for EFTPOS terminals in cabs. Unlike most other goods and services, all electronic payments in Victorian taxis attract a 'service fee' or surcharge of at least 10 per cent of the total fare (in addition to GST). This surcharge costs taxi users at least $30 million per year and is well in excess of the resource costs incurred in processing such payments. What competition there is in payments processing focuses narrowly on attracting taxi operators and drivers by offering rebates funded from the surcharge. On average, such rebates account for around half of the surcharge.

2.2 Major components of the draft reform package

As detailed in the Draft Report, the inquiry concluded that unduly restrictive regulation is at the heart of most of the problems confronting the taxi and hire car industry and that making piecemeal regulatory changes will deal only with the symptoms of these problems. Accordingly, the inquiry's draft reforms aimed to generate a fundamental shift in the focus of regulation and in the balance between government, industry and market regulation.

The draft reform package was designed to deliver significant and lasting improvements in three critical areas: increasing and improving the supply of taxi and hire car services; restoring trust and confidence in the taxi industry; and boosting demand for taxi and hire car services.

Under the draft proposals, government regulation would become more outcomes-focused and less prescriptive; more responsibility would be placed on industry participants for good service performance; and competition would operate more effectively to improve service performance. There would be a significant reduction in the administrative and compliance burdens imposed on the industry (and their associated costs) as a result of the better targeting of regulation and the removal of undesirable regulation. Over time, the structure of the industry would be expected to shift towards a more open and competitive market with a higher number of owner-drivers and both small and large businesses offering greater choice in services, vehicles and price.

The draft recommendations formed an integrated package of reforms that aimed to deliver the following broad outcomes:

For consumers – Better services and a greater choice of services that are safe, reliable and affordable, and that offer a bigger range of travel options and prices

For industry – A more diverse and dynamic industry, a reduction in the regulatory burden and new opportunities to expand into new markets and attract more customers

For taxi operators – More choice in the networks they join, the services and equipment they purchase and the types of service they provide

For drivers – Better remuneration and improved working conditions, greater valuing of driver experience and quality, and more opportunities to start their own taxi businesses

For government – A more effective industry regulator and better targeted, less complex regulation that protects consumers, improves safety and does not impede competition.

The main elements of the reform package are outlined below. For a full analysis of these issues, readers should refer to the relevant chapters of the inquiry's Draft Report.

2.2.1 Better quality drivers

As noted above, the inquiry's strong view was that improving driver quality should be a top priority for the taxi industry as it is critical to improving taxi services and increasing demand for these services. The inquiry considered in detail a range of options to address driver quality including entry and training requirements, remuneration and working conditions, the legal basis for engaging drivers, ways to improve driver status and respect, accountability for driver quality and approaches adopted in other jurisdictions.

The core elements in the inquiry's draft reform package were:

- New driver training and entry requirements
- A new mandatory Driver Agreement to replace existing bailment arrangements for engaging drivers
- Enhanced remuneration for drivers within the terms of the Driver Agreement.

While recommending improvements to driver training to deliver a supply of drivers who meet reasonable community expectations, the inquiry concluded that better pay and conditions for drivers are essential to enhancing the industry's ability to attract and retain quality drivers – and, ultimately, improve service performance.

The inquiry proposed a new Driver Agreement that would replace all existing bailment arrangements and contain minimum terms, conditions and payment arrangements published by the Victorian Government and enforced by industry participants and the regulator. The Driver Agreement would include conditions such as Occupational Health and Safety responsibilities, insurance obligations, service standards required of the driver and dispute resolution mechanisms.

The Driver Agreement proposed in the Draft Report provided for paying no less than 60 per cent of the fare box revenue to drivers. The inquiry also canvassed an alternative of establishing a minimum hourly rate for the hours drivers work in peak and non-peak times or allowing drivers and operators to choose between either a specified minimum percentage of fare box revenue or minimum hourly rates when entering into the Agreement (as long as this did not result in a lower remuneration than the 60 per cent share of the fare box).

The inquiry was mindful of the fact that, because driver remuneration has been forced to such low levels, there is now a practical issue of how taxi operators will be able to afford to pay their drivers more. The inquiry found that most of the benefit of low driver remuneration has flowed through to licence holders in the form of higher assignment prices. The inquiry proposed a number of reforms aimed at improving the financial position of taxi operators by lowering their costs, raising revenue and boosting demand for taxi services to offset higher pay for drivers. Critical among these are the draft proposals regarding taxi licences, which would lower licence assignment costs and cap future growth in assignment prices. The inquiry observed that the industry needed to do more to improve its ability to attract and retain good drivers, instead of relying on a continual flow of temporary drivers.

2.2.2 Changing licensing for entry to the taxi industry

The inquiry proposed to change the restriction on the issue of taxi licences across Victoria from a restriction on the numbers available to a policy whereby any qualified person can purchase a new licence at a set price from the Victorian Government at any time. There would be no quantitative limit on the number of licences issued and no restrictive 'public interest' test applied by the regulator. New licences would not be free, but would be available for a fixed annual fee. Over time, as the market for taxi services grows, this new approach would allow a smoother adjustment in the supply of taxi licences, ensuring greater availability of service at peak times. It would also remove the ongoing problem of having the regulator 'second guess' the market demand, rather than individuals and firms operating in the market making this assessment.

Under the inquiry's draft recommendations, all new taxi licences would be available for a five year term at a fixed annual price, paid 'upfront' each year. This price would not be increased or indexed over time. The new taxi licences would be transferable, but not assignable and would not be subject to the current 'continuous operation' licence condition. The draft recommendations proposed issuing licences in four specific zones, with appropriate prices set for each zone:

Zone 1: Greater Melbourne – combines the existing Metropolitan and Outer Suburban zones (Dandenong and Frankston). Proposed annual licence prices: conventional $20,000 per year; WAT $16,400 per year.

Zone 2: Urban – includes the regional cities of Ballarat, Bendigo and Geelong and other service areas where current licence values are, or would be expected to be, above $200,000. Proposed annual prices: conventional $12,000 per year; WAT $9,400 per year

Zone 3: Regional – comprises service areas where current licence values are, or would be expected to be, between $100,000 and $200,000. Proposed annual prices: conventional and WAT $6,500 per year

Zone 4: Country – comprises all other parts of the State not covered by Zones 1, 2 and 3. Proposed annual prices: conventional and WAT $2,000 per year.

The inquiry proposed that the 330 10-year WAT licences issued throughout 2010 and 2011 into the Greater Melbourne area, and the 600 restricted peak service 'green top' licences issued between 2003 and 2009 that operate in metropolitan Melbourne, would be offered the option to convert to the new five year licence.

The inquiry went to some lengths in its Draft Report to set out a clear rationale for its proposed changes to licensing. The inquiry noted that quantity restrictions to entry to the taxi and hire car industry are not justified on market failure or public benefit grounds, stifle competition and innovation, cause licences to acquire significant market value and are ultimately detrimental to industry performance. However, the inquiry did not propose an immediate move to an 'open, free entry' market, recognising the severe impact this would have on some incumbent licence holders. The inquiry also noted that making all new licences non-assignable would expand the owner-operator component of the industry, shifting the taxi industry's structure from an investor model to a service industry model.

At the same time, other recommendations made by the inquiry aimed to increase demand for taxi services and reduce barriers to expanding the range of services that can be offered by taxis. The inquiry considered that, over time, this would lift vehicle utilisation rates and generate higher revenue, building the economic strength of the industry and securing its future as an efficient services provider.

2.2.3 Hire car reforms

The inquiry proposed a significant relaxation in the regulation covering hire cars to enable them to provide a wider range of services. Under the inquiry's reforms, hire cars would be known as Pre-Booked Only cabs (PBOs). As with taxis, the public interest test currently applying to the issue of country hire car licences would be removed and all new PBO licences would be granted 'as of right' to approved applicants who wish to purchase them at set prices.

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

PBO licences would be available for purchase at any time to approved applicants at a one-off set price of $40,000.

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

The inquiry indicated that it expected these changes to lead over the longer term to the emergence of more diverse pre-booked services, ranging from the luxury, 'high end' market to more affordable and/or specialised services. These developments would give Victorians a much greater choice in point-to-point travel options.

The inquiry also proposed reforms designed to deal with the problem of touting by unlicensed, illegal operators as well as touting by licensed PBOs operating outside their licence conditions. These reforms included adopting a new, orderly approach to hire car bookings and pick-ups at Melbourne Airport and increasing penalties for touting.

2.2.4 Moving from fare regulation to fare competition

The inquiry found that the current system of fare regulation discourages competition, restricts innovation and creates distortions, as seen in short trip refusals and long queues of taxis at the airport. The inquiry proposed a two-stage process to move from fare regulation to fare competition over time:

- In Stage 1 (the first three years of the reform program), taxi fares in the Greater Melbourne and Urban zones would be regulated and determined by the Essential Services Commission (ESC). Fares set by the ESC would change from being prescribed fares (fixed amounts) to maximum fares. In Regional and Country zones, where pre-booked services predominate, the TSC would have the power to replace formal maximum fare regulation with a price notification system following the implementation of price-based licensing policy in these areas.
- In Stage 2, the TSC would assess the extent and effectiveness of fare competition in the Greater Melbourne and Urban zones and determine when it is suitable to move from maximum to notified and monitored fares.

Fares would also be restructured and simplified, including late night peak pricing on Friday and Saturday nights (with off-setting reductions at all other off-peak times); increasing the flagfall and reducing the price per kilometre for the Greater Melbourne zone; and simplifying multiple hire fare charging to support more flexible, shared ride services.

Fare reviews would be undertaken periodically, with interim reviews taken when certain cost thresholds (such as LPG prices) are reached.

2.2.5 Other core reforms

Alongside these significant regulatory reforms, the reform package included a number of other 'core' elements the inquiry considered essential to a more competitive, innovative and consumer-oriented industry:

- A new streamlined system of approval and responsibility for taxi operators and networks
- Replacing prescriptive service standards with outcomes-based regulation that will allow networks and operators to choose for themselves how to meet the required outcomes
- Removal of the requirement for taxi operators to be affiliated with an NSP and reforms to encourage new networks to enter the market
- Allowing greater choice in the types of vehicles that can be used as taxis and hire cars
- Establishing a central booking service in the Greater Metropolitan zone to improve booking services for Wheelchair Accessible Taxis
- An expansion of the Multi Purpose Taxi Program (MPTP)
- Permitting advertising on taxis and hire cars, subject to strict guidelines
- Establishing a Public Register of industry participants, with taxi users able to access the register from the cab using smartphone technology
- Allowing taxis and hire cars to compete with buses and other public transport, and removing regulatory and other barriers to taxis moving into new markets.

The inquiry also sought views on removing the requirement for taxis to be painted yellow in the Country and Regional zones, and allowing networks in the Greater Melbourne and Urban zones to choose their own distinctive livery, which would enable them to develop more recognisable brands and improve competition.

2.3 Broad overview of responses to the Draft Report

A broad overview of the overall response to the Draft Report are summarised below. Points of detail in submissions in relation to specific recommendations are discussed in chapters 3 to 15.

Responses to the Draft Report were wide-ranging. However, some overall features of the response were:

- There was widespread agreement that service outcomes in the taxi industry need to improve. While some industry participants argued that concerns about service standards have been exaggerated (including by the inquiry), almost all submissions and responses to the inquiry from outside the industry continued to express

significant concerns about service-related matters, including poor driver quality, unsatisfactory performance by taxi booking services, problems with taxi availability during peak times or in particular locations, and accessibility and services provided to people with a disability.

- Community and business organisations representing the industry's customers strongly endorsed the Draft Report's focus on improving service quality and delivery. For example, the joint submission of the Victorian Employers' Chamber of Commerce and Industry (VECCI), the Victorian Tourism Industry Council (VTIC) and the Victorian Events Industry Council (VEIC) stated that "the focus of these [inquiry] reforms must ultimately be on improving the consumer experience through the provision of a safe, professional, reliable and sustainable taxi service".8
- The need to improve customer outcomes from the taxi industry was acknowledged by the Victorian Taxi Association (VTA) and Taxi Industry Stakeholders Victoria (TISV). While questioning whether service standards and performance are as poor as the inquiry reported, the VTA stated it is committed "to meaningful and sensible reform of the Victorian taxi industry – based on improving service delivery outcomes for taxi customers".9 TISV also "acknowledges that significant reforms are needed for the taxi industry".10 Similarly, another industry participant, Taxi Link Pty Ltd, stated "the industry recognises that reform is needed to deliver a better service to the public and provide for a sustainable taxi industry for all stakeholders".11
- While there was broad agreement on the need for some reform, there was a clear divide in responses to the draft recommendations between the investment interests of taxi licence holders and operators (who focused largely on opposing the proposed changes to licensing and driver remuneration), and responses from community groups, business organisations and local councils (who either supported the broad direction of the reform package or endorsed specific proposals relating to their interests).
- The most contentious areas were the inquiry's proposed changes to taxi and hire car licensing and the new Driver Agreement. These recommendations were opposed by around 60 per cent of online responses, with the strongest opposition coming from those with investment interests in the taxi industry. The majority of submissions from industry participants were opposed to the inquiry's recommendations regarding taxi licensing and, to a slightly lesser extent, the proposed 60/40 'split' of the fare box between drivers and operators. Many industry submissions commented only on the taxi licensing recommendations: approximately one quarter of online submissions that commented on these recommendations did not comment on any other recommendation. This appears to reflect the high proportion of metropolitan Melbourne taxi licences that are owned by individuals who assign them and have no active role in the delivery of taxi services.
- There was a clear correlation between responses on less restrictive taxi licensing (draft Recommendation 1.1) and increasing driver remuneration (draft Recommendation 6.14): support for one was almost invariably associated with support for the other; and opposition to one was overwhelmingly associated with opposition to the other. However, some industry participants (including TISV) gave qualified support to the proposed mandatory 60/40 fare box split, while noting that it must be affordable on an industry-wide basis.
- There was strong support from outside the industry for lifting the status, income and working conditions of drivers, with many seeing this as being directly related to service quality and, in some instances, as a matter of 'fairness'.
- Opposition to the inquiry's proposed licensing reforms centred around concerns that opening up entry would 'flood' an already 'full market' (leading to a decrease in taxi occupancy, higher consumer costs and lower driver incomes) and cause financial problems for licence holders. While some of those opposed to the inquiry's approach were opposed to any new issue of taxi licences, others argued that additional licences should be issued according to demand using appropriate 'triggers' to maintain an adequate, but not excessive, supply of taxis. However, there was general agreement from taxi operators that assignment prices are at unsustainable levels and adversely impacting the industry's performance.
- The views of drivers, as a homogenous group, were less readily identifiable in formal responses compared to licence owners. Drivers mostly tended to support a less restrictive approach to licensing, seeing the opportunities

8 VECCI, VTIC and VEIC submission L180, p. 1
9 VTA submission L179, p. 4
10 TISV submission E347, p. 2
11 Taxi Link Pty Ltd submission L178, p.1

and benefits in less costly licences, lower assignment prices and, not surprisingly, increased remuneration through the proposed 60/40 fare box split. However, some drivers supporting the remuneration proposal opposed less restrictive issuing of licences, due to concerns about a possible high level of new entrants to the market and the consequences for their takings. The Australian Taxi Drivers Association (ATDA) strongly endorsed reforms aimed at improving driver remuneration and making non-assignable licences available at a set price, noting that "the professionalism and commitment to service will be enhanced by an increased number of taxis being driven by their owner[s]".12

- While having reservations about some elements of the inquiry's proposals, submissions generally supported improved driver training, seeing this as critical to lifting driver quality and service standards.
- Overall, the bulk of the 145 recommendations were supported in the majority of those submissions that commented on them: 120 of the 145 recommendations were supported by two-thirds or more of the online submissions that commented on them. Some submissions supported the entire reform package.

2.3.1 Broad conclusions from responses to the Draft Report

The broad picture that the inquiry draws from the many responses to its Draft Report is that there was extensive agreement across stakeholders that improvements are needed in many aspects of taxi services. However, what exactly constituted 'improvement' and how to achieve it differed greatly among stakeholders. Furthermore, and most significantly, there was no consensus on the fundamental reforms relating to taxi and hire car licensing, drivers' remuneration and fares – the issues with the greatest potential impact on the financial interests of incumbent licence owners, operators and network service providers.

Agreement across industry and other stakeholder groupings was greatest around those recommendations relating to vehicle standards, driver training and customer safety, and accessibility of services to customers with a disability.

There were also differences of opinion around the extent, intent or wording of a number of the draft recommendations, with suggestions made for additions and amendments. Details about responses to specific draft recommendations are set out in the following chapters.

12 ATDA submission E30, p. 2

PART A – INCREASING AND IMPROVING SUPPLY

3 Taxi licensing and zones

Taxi licensing

3.1 Inquiry's views in the Draft Report

The Draft Report set out a detailed analysis of the current licensing regime governing taxi and hire cars. The inquiry found that the restrictions on the release of taxi licences, contained in sections 143 (including the application of the 'public interest' test) and 143A of the *Transport Act 1983,* are costly for consumers. The benefits of these restrictions have accrued to licence holders, not to consumers, taxi operators or taxi drivers.

The costs of these restrictions are felt by consumers because:

- Prices are higher than necessary to provide a passenger service (as the assignment costs, which are real costs for taxi operators who do not own a licence, are built into regulated fares)
- Restrictions exacerbate problems of meeting demand at peak times
- By raising the cost of market entry, restrictions prevent service innovation and in particular the servicing of market niches
- Restrictions impose a significant regulatory burden and create the risk of the licensing authority choosing the wrong price and quality combination.

The Draft Report also considered various arguments for retaining licence restrictions, including that there will be 'too much' entry and uneconomic services provided by taxis will be eroded in an unrestricted market, and that the restrictions lead to more efficient production of taxi services. For each of these arguments, the inquiry found that any benefits that may be derived from licence restrictions are far outweighed by the costs they impose.

The inquiry found that the net welfare costs of the restrictions in Victoria are likely to be substantial. Modelling conducted by the inquiry (summarised in the Annex to this report) suggested that the licence restrictions cost Melbourne taxi users around $120 million per year and that there are associated losses of welfare (losses from prices being too high and quantities of taxi services being consumed too low) of up to $76 million per year. This modelling shows that if the current profits made by licence owners were used instead to *lower prices and increase* service availability, the likely gains to consumers would outweigh the losses experienced by licence owners.

After finding no strong public interest grounds for continuing to restrict entry, the inquiry examined in detail the case for an open taxi market in Victoria. The Draft Report noted that an immediate move to a full open market would undermine existing market values of licences and drive these to zero. With current values for perpetual licences at the commencement of the inquiry hovering at just below $500,000 in Melbourne and over $300,000 in many areas outside Melbourne, the inquiry found this would impose severe losses on licence holders. Some of these licence owners will not have obtained excessive returns on their licences in the past, having acquired them well after restrictive licensing was first introduced. The inquiry indicated that it was unwilling to recommend a full open market without measures to offset the losses licence holders would suffer. Further, the inquiry found that such an approach would not necessarily improve service performance to the same extent as taking action to address driver quality concerns.

The inquiry proposed a more moderate approach, in which new licences would be issued to any qualified person at any time for a set annual price. This price would be set at a significant level (not 'free entry') and act as a market-based rationing mechanism to determine the number of licences, rather than a rigid quantitative control. As a result, the inquiry recommended no regulated limit on the number of licences made available and no restrictive 'public interest' test applied by the regulator.

This new policy would have the effect of reducing the impact of restrictions on licences in the longer term, while also creating an opportunity to re-balance the income distribution within the industry between owners and drivers by reducing (but not removing) the returns to licence holders and increasing driver payments.

Draft recommendations

The inquiry's draft recommendations provided the basis for moving to restricting licences based on price, rather than quantity.

- A new approach to taxi licensing should be adopted statewide whereby licences are available at any time to approved applicants at a set price.
- The restrictive public interest test currently applying to the issue process for country taxi licences should be removed. All new licences in Victoria should be granted 'as of right' to approved applicants who wish to purchase them at set prices.
- New and existing licences should be authorised to operate in a four tier system of taxi zones, with corresponding prices for new licences established for each zone (as below). The inquiry's recommended zonal boundaries take into account current licence values as the core criteria and, where this information is limited, other indicators have been taken into account such as size of market, number of licences, licence values and population growth in different parts of the state:

Zone 1: Greater Melbourne - This zone should combine the existing Metropolitan and Outer Suburban zones (Dandenong and Frankston)

Zone 2: Urban - This zone should include the regional cities of Ballarat, Bendigo and Geelong (currently deemed as separate urban zones) and other service areas where current licence values are, or would be expected to be, above $200,000

Zone 3: Regional - This zone should comprise service areas where current licence values are, or would be expected to be, between $100,000 and $200,000

Zone 4: Country - This zone should comprise all other parts of the State not covered by Zones 1, 2 and 3

- The new conventional and wheelchair accessible taxi (WAT) licences should have set annual payment prices as follows:

Zone 1: Greater Melbourne – conventional $20,000 per year; WAT $16,400 per year

Zone 2: Urban – conventional $12,000 per year; WAT $9,400 per year

Zone 3: Regional – conventional and WAT $6,500 per year

Zone 4: Country – conventional and WAT $2,000 per year.

- The new taxi licences should have a uniform set of conditions set in regulation, including that they are:
  - Fixed term for five years
  - Transferable
  - Non-assignable (the rights to operate the vehicle cannot be given to another party)
  - Payable upfront annually via a fixed price
  - Able to be handed back (upfront payments will not be refundable)
  - Not subject to the current 'continuous operation' licence condition so that they are able (but not required) to operate 24 hours a day, undertaking rank, hail and pre-booked work.
- The 330 10-year wheelchair accessible taxi licences issued throughout 2010 and 2011 into the Greater Melbourne area, and the 600 restricted peak service 'green top' licences issued between 2003 and 2009 that operate in metropolitan Melbourne, should be offered the option to convert to the new five year licence (including the new terms, conditions, payment prices and method of issue).

3.2 Issues raised in submissions

Almost all submissions and responses to the Draft Report addressed the recommendations relating to changes to taxi licences. The views expressed by industry participants differed greatly from users of taxi services, particularly those who rely heavily on taxis. While many incumbent licence holders commented on the immediate financial impact of reform, those who rely on taxis because of disability or as part of a service for their businesses strongly backed the reforms as a way of improving Victoria's commercial passenger vehicle industry.

3.2.1 Industry associations

Both major industry representative bodies in Victoria, the VTA and TISV opposed the reforms to licensing arrangements governing entry to the taxi industry.

The VTA strongly opposed the proposed changes, arguing that:

> *Not only is open entry unnecessary in the current context, because as has been established, there is no shortage, it is no longer the best practice model for addressing issues relating to the supply of taxi services.*
>
> *As has been demonstrated in other jurisdictions, improved technology and the associated ability to capture accurate data makes it relatively easy to measure demand and therefore respond with a regulated supply of taxi licences in line with that demand. This process can ensure that the negative aspects of entry are not experienced while increased demand is effectively absorbed.*[1]

The reasons submitted by the VTA for opposing the draft licensing arrangements included:

- Taxi occupancy will decrease as supply increases
- Costs to consumers will increase either indirectly, via industry participants cutting costs to remain viable (manifesting as poorer service delivery to customers and less safe services), or by direct fare increases that will be necessary to offset reduced patronage
- Driver earnings will fall
- There will be significant resultant traffic congestion.

In opposing the draft taxi licensing proposals, TISV adopted a similar view to the VTA: that the taxi market is already 'full'; there is an ample supply (or an oversupply) of taxis relative to market demand for all but peak usage times on Friday and Saturday nights; and that:

> *…whilst…additional taxi licences would increase the availability of taxis on Friday and Saturday nights, they will also add to the oversupply of taxis at other times, which will negatively impact existing taxi licences, unless there is a corresponding and sustained increase in demand.* [2]

TISV nominated two factors that could 'unlock' the current shortage of taxi availability on Friday and Saturday nights: addressing the driver shortage (through its proposal for a 20 per cent surcharge on all fares) and addressing driver and passenger safety issues at CBD taxi ranks on Friday and Saturday nights. TISV argued that the inquiry had failed to grasp the gravity of the current situation at CBD taxi ranks, where anti-social behaviour, drunkenness and other problems are discouraging taxi operators and drivers from providing services at these times and places.

Like the VTA, TISV believed that any additional taxi licences should be issued according to demand, using appropriate 'triggers', so that supply is adequate but not excessive. TISV suggested "a compromise in the form of

1 VTA submission L179, p. 10
2 TISV submission E347, p. 10

lower assignment fees which are capped (at a reasonable level) and new licences able to be issued when identified through an automated public interest test in the form of qualitative triggers".[3]

3.2.2 Licence owners and networks

Many submissions were received from licence owners. Many of these respondents expressed disbelief and anger that the Victorian Government might change the current regulatory settings around the release of new licences. For these owners, the reform package represented an 'open market' approach that was 'unjust'. The proposed reforms were likened to the effect of deregulation in Ireland and New Zealand.

Many small licence holders discussed their original purchasing decision, saying they bought into a market they believed would be highly regulated into the future. Some referred to existing regulations as 'rules' that the Government would be 'breaking' by opening up new licences. Respondents discussed mortgaging their homes and struggling to make high loan repayments in order to acquire a licence, particularly those who purchased a licence in the last 10 years.

> *I invested in good faith in a government controlled industry.*[4]
>
> *We have made investments on a notion that taxi plates would bring in a certain amount of income. We now stand to be financially devastated.*[5]
>
> *License Holders have invested in good faith in the Taxi products to provide capital growth and returns, much like any other investment opportunities on the market.*[6]

Such licence holders believed that their licences are 'investment assets' similar to the purchase of a house. Owners discussed this 'investment' as a means to provide income security for their families and as a form of superannuation in their retirement. Both metropolitan and country owners had an expectation of continual return from the value of the licence in the future:

> *In BENDIGO over 90% Of the Taxi Licences are OWNER/OPERATORS who have borrowed large sums of money to purchase a licence mostly to be used for their superannuation.*[7]

Many respondents appeared to have difficulty measuring the impacts of the draft recommendations on their licence values. Those with licences, particularly those who purchased at close to the height of the market (around $500,000) referred to their licence values under the reforms as 'worthless', worth only $20,000 or a 'financial catastrophe'. TISV presented modelling commissioned from Deloitte Access Economics that suggested existing licence values would reduce to $175,000 to $200,000, based on a discount rate of 10 per cent. Preliminary modelling provided by the VTA suggested that licences might fall to $320,000, based on maintaining a 6.25 per cent yield. In many circumstances, licence holders expressed genuine concern that they would never be able to pay off their licence value to the bank and that their licence would become unviable to operate as a business.

There were mixed views about the increased size of the market under the reforms. Some suggested a doubling or tripling of taxis, with many refuting the inquiry's prediction of an increase in the hundreds:

> *I would respectfully suggest that this is clearly incorrect and believe that the immediate impact will be much greater probably in the thousands.*[8]

There were also concerns from some country licence owners that the new model would mean they could never sell their licences, as prospective buyers would prefer to lease annually from the Government.

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3 TISV submission E347, p. 5
4 Rosa Mrmacovski submission 802, p.2
5 George Kitsakis submission 641, p.2
6 Anonymous submission 488, p.2
7 Anonymous submission 1020, p.2
8 Taxi Link submission L178, p.1

Why is a taxi licence not like a house?

A number of licence owners submitted to the inquiry that high licence values are not unreasonable because they have increased in value much like their houses. Although licence owners may have become accustomed to thinking of their licences as physical assets, there are fundamental differences between taxi licences and physical assets such as houses and land. These differences mean there is no reason why licence prices should continue to grow like house prices or that it is reasonable for them to have grown in value at a similar rate in the past.

Houses have value because the land they are built on is scarce: no more land can be created in desirable locations. Over time, as cities grow, this scarcity value increases. The market for housing, and the interaction between buyers and sellers of houses, determines this value.

Taxi licences are also currently scarce. Taxi licences are issued by the Victorian Government and are only scarce because the Government has decided to neutralise normal market forces and limit their release. Like land, the scarcity value of licences has increased over time. But there is no reason that licences must remain scarce. The Government can simply issue more licences that are exactly the same as existing licences. This would reduce their scarcity value.

This issue of property rights in taxi licences is discussed further in chapter 16.

In response to the potentially depreciated value of licences, many licence holders called for a buyback of their licences or for a compensation package to be made available. Again, licence owners compared the depreciated value of a licence with the loss incurred by a homeowner when infrastructure decisions are made that impact on property values. Those that gave figures for such a compensation scheme suggested it should be commensurate with the height of the market for taxi licences: around the $500,000 mark. Owners suggested monies raised from licences could be redistributed to the industry:

> *The only option going forward is for the Government to repurchase all these licences from the licence holders at current market price. I propose that they repay all investors with the revenue they make from issuing new licences.*[9]

Even those licence holders who had purchased licences at significantly lower values called for compensation equivalent to the current market rate or higher. A number of these submissions threatened a class action if a compensation package was not put forward as part of the reforms. Many submissions suggested the reforms would lead to a reliance on social security or other income support payments as owners left the industry and their businesses.

In responding to the reform package, many licence holders put forward their views on why the industry was encountering poor levels of customer satisfaction. Many believed that the shortage of taxis was only a problem on Friday and Saturday nights and an issue not caused by the number of taxis, but by taxi drivers concerned for their own welfare:

> *There is a general consensus amongst taxi operators and taxi drivers that the increasing violence, verbal abuse of taxi drivers and damage to taxicabs, especially on Friday and Saturday nights, has led to a situation where an increasing number of taxi drivers are reluctant to service the CBD taxi ranks because they are being increasingly viewed as unsafe*.[10]

Owners also blamed the Victorian Government for reduced public transport services late at night and the inability of Victoria Police to guarantee the safety of drivers. Regional taxi network operators also suggested more could be done to provide public transport in country areas.

For many respondents, making more licences available was seen as a form of revenue raising by the Victorian Government.

9 Yusef Ozyilmaz submission L052, p.1
10 TISV submission E347, p.11

Licence holders considered there were sufficient taxis in Melbourne, noted the 28 per cent occupancy rate and suggested demand for taxis had fallen in recent years. They suggested the introduction of more licences would only serve to reduce this already low occupancy rate and lead to drivers 'cutting corners' to get jobs and more experienced drivers leaving the industry.

One respondent suggested the problem was spatial:

> *The problem is not that there are not enough cars, it is that there are not enough in the right areas, at the right times.*[11]

Many submissions criticised the lease approach to licensing, suggesting it would cause an oversupply of licences in the market, with corresponding levels of congestion in the CBD and environmental costs. The benefits of 'as of right' licensing were disputed on the basis that drivers currently providing poor service will purchase the new licences (referred to as 'fixed term fly by nighters' or 'cowboys') hoping to make 'quick money'. There was a belief that these newcomers would be less safe and provide an inferior level of service, exacerbating problems in the industry.

> *As of right licences at a fixed price will result in an initial flood of taxi licences being taken up by people, simply 'buying a job', most of who will have had no experience in the delivery of taxi services in its various components, including despatch. The result in the very short term will be chaos and dramatic economic loss by those who have taken up licences.*[12]

A number of submissions suggested alternative methods for the release of new licences. Releasing a fixed number of peak service licences was seen as one way of addressing the high demand on Friday and Saturday nights. Others suggested an immediate licence release of five or ten per cent of current licence numbers, but for controls to remain on any subsequent new licences.

Taxi Link supported the capping of assignment rentals, noting it "has the potential if delivered correctly to redistribute taxi revenue from the licence holder to the driver".[13] However, the suggestion was that this value would need to be around $2,300 to $2,500 per calendar month and subject to review and adjustment.

Peninsula Taxis suggested an approach where, on application by the network, a non-transferable licence could be purchased from the Government at a fixed price.

The most popular suggestion was for an annual formula-based metric calculation such as those used in New South Wales and Queensland. The model was supported by the VTA and TISV, who argued for retaining a form of public interest test with inbuilt triggers for the release of new licences. Suggestions for KPIs under such a model included 'population increase', 'new suburbs being developed', 'public transport patterns', 'demographics', 'demand' and 'wait times'.

An argument put forward by country networks was that the reforms were a 'one size fits all' approach that did not reflect the high levels of service by country operators. The lease model and reduced licence values were criticised for not taking account of the high numbers of owner-operator-driver businesses in country areas, meaning these businesses would have less money available to increase remuneration for drivers. Owners stated their businesses would be unviable under the proposed model.

Country networks discussed the problems in using licence values as the basis for zoning, arguing that these values were inaccurate reflections of the wealth of a business and that other factors needed to be taken into account:

> *It is the value of the vehicles, equipment, goodwill and good service to the public that is sold. The bottom line (profit and loss sheet) is the deciding factor that sells the business.*[14]

11 Anonymous submission 1519, p.2
12 Peninsula Taxis submission L158, p.12
13 Taxi Link submission L178, p. 2
14 Hans Zonneveldt submission L081, p.2

Submissions sought further information on how the inquiry arrived at the new licence values, with many suggesting that the recommendations were developed without an evidence base. Many submissions asked for more data and for details of the inquiry's modelling to be released.

Many submissions disagreed with the suggestion that there could be unmet demand for taxi and hire car services.

Country operators believed the introduction of competition would encourage undercutting by operators and disputes amongst drivers. They argued that without entry restrictions, less experienced 'cowboys' would enter the market without having the requisite local knowledge. There were concerns about encroachment with larger operators from neighbouring towns 'stealing' potential customers. A few submissions from country taxi drivers supported these concerns.

Coupled with removal of the continuous service provision, a number of country networks believed customers would lose out from a lack of services when demand was low, such as late at night mid-week. These submissions argued that newcomers would only put their cars out when the demand for services were high.

> *New licence holders will be in it for the money, not the customers. There will be no rule as to what times they choose to operate, which will give them the freedom to work only the more lucrative times they wish. If this is to happen [we] will cease to operate cabs in the less desirable periods as well. This will lead to many times during the week where there will be no service provided at all.*[15]

Country licence owners also argued there would be undesirable effects from removing the public interest test. Latrobe Valley Taxi Company raised the issue of certainty being eroded and suggested this would lead to reduced investment in the industry.[16] The Murrell Group of licence owners from Geelong suggested the removal of the public interest test would send licence holders into bankruptcy or into operating their vehicles illegally in order to survive.

GMTLR purchasers of licences

The inquiry received submissions from two groups of licence holders who bought licences in the Greater Melbourne Taxi Licence Release (GMTLR) process in 2010/11.

The proposed reduction in licence fees for WAT vehicles was supported by the Zebra Alliance group. These purchasers are paying $27,835 in the current financial year, with this to be indexed annually for the next eight years. Zebra Alliance suggested that the inquiry's proposed licence fee for Melbourne of $16,000 would "incentivise drivers and owners to remain in the industry and consider driving WATs as a career".[17] Zebra Alliance supported an even further reduction to $1000 per year, noting this would be in line with NSW licence fees for WATs.

The Greater Melbourne Taxi Licence Release Group represents some purchasers of the 200 conventional 10-year fixed term licences. These purchasers paid $180,000 for these licences. The GMTLR Group noted that the inquiry had not made specific recommendations about the treatment of these licences and provided three suggestions for the inquiry to consider to reduce the potential disadvantage suffered by these licence owners: convert their licences into full licences; buy back the unused portion of the licence (that is, eight years' worth); or extend the period of the licences to 20 years.

3.2.3 Taxi drivers

The inquiry received a number of submissions from drivers and driver groups strongly supportive of the new licence model, largely because it was seen as giving drivers an opportunity to own their own businesses. For some drivers, the proposed reforms were also seen as providing a greater focus on customer service. The ATDA submission stated:

> *The industry does not exist for the benefit of plate licensees, nor for the benefit of assignees or the suppliers of ancillary services. It exists to serve the passenger customer. To provide*

15 Anonymous submission 369, p.1

16 Latrobe Valley Taxi Company Pty Ltd submission L021, p. 2. The company also pointed to the substantial depot fees currently paid by licence holders of $12,000 per annum.

17 Melbourne Zebra Taxi Alliance Inc. submission E348, p. 2

> *that service requires the active participation of committed and professional taxi drivers who are the actual service provider.*[18]

Some driver submissions expressed great relief that a licence may become available that is affordable and would allow them to have a greater stake in the industry.

3.2.4 Taxi users

Many user groups were strongly in favour of the reforms to remove barriers to entering the taxi market. Submissions by VCOSS and Scope supported recommendations that promoted greater availability of services and competition. VCOSS noted:

> *Overall we endorse its general direction and regulatory approach, and particularly welcome those elements that promote greater availability and accessibility of taxis for people experiencing disadvantage.*[19]

The Victorian Disability Advisory Committee (VDAC), together with disability care centres Wallara and Westmont Aged Care Facility, expressed concern that the proposed reforms could cause financial problems for some existing licence holders, with a flow-on effect on services to current customers.

3.2.5 Government agencies

The Essential Services Commission (ESC) submission outlined the benefits of removing unnecessary regulation and increasing competition. These benefits included reduced waiting times, improved service availability, increased flexibility and service innovation and fare competition. The submission referred to Ireland, the Netherlands and Sweden where such outcomes have been achieved as a result of taxi reforms.

The ESC noted the distinction between the recommendations proposed by the inquiry and the 'open entry reforms', such as seen in the United States, the Northern Territory and Ireland. The ESC supported the inquiry's approach to reducing regulation. Importantly, the submission noted the importance of maintaining minimum levels of safety and quality regulation, and endorsed the inquiry's approach to these issues.

The ESC submission proposed that a review of the licence price point (similar to that proposed by the inquiry for PBOs) could be introduced for taxi licences.

3.2.6 Non-government organisations

The Federation of Community Legal Centres Victoria strongly endorsed the recommendations for removal of licence restrictions on the basis that it would make it easier for drivers to own their own licences. The Federation commented this could help overcome the many legal problems that arise from drivers' 'bailee status' which gives them limited rights and bargaining power. The Federation commented:

> *By diluting the influence of investors and large operators, the proposed new licensing regime would make it easier to implement structural changes in the industry, to make driving a more secure and attractive occupation. This would serve the interests of social justice and would raise standards in the industry by reducing the turnover of drivers.*[20]

The benefits for tourism of the proposed reforms were recognised by the Victorian Events Industry Council and the Victorian Tourism Industry Council in their joint submission. Supply of services, particularly during major events, was identified as a significant issue for high demand locations, with the submission pointing out that additional taxis must be made available at the times and places they are needed most, with an important role for networks in directing supply. The RACV submission noted the importance of additional taxis in servicing outer suburban and regional areas.

18 ATDA submission E30, p. 6

19 VCOSS submission E494, p.3

20 Federation of CLCs Victoria submission E271, p. 2

Recommendations on reducing entry restrictions for metropolitan Melbourne were supported by major businesses, including Crown Melbourne Ltd, which argued that a world class taxi service was essential for tourists and locals alike.

3.3 Inquiry's response to submissions

As set out previously, the inquiry received many submissions focusing on the loss of value in taxi licences that would follow from the proposed licensing reforms and on the difficulties these reforms would cause licence holders. The inquiry acknowledges that this is a serious issue and has made additional comments on these matters in this Final Report (see chapter 16). However, the inquiry notes that this issue – and the associated question of compensation or adjustment assistance – is distinct from the policy issue of whether the quantitative restriction on the number of licences should be replaced with price-based restrictions.

Before arriving at its final recommendations, the inquiry carefully considered the key points and questions raised in submissions:

- The value of taxi licences after the inquiry's proposed reforms are implemented
- The likely extent of new entry and whether much of the new entry would be economically 'irrational'
- The Government's objectives in releasing new licences and whether this is simply to raise more revenue at the expense of the taxi industry
- The view that the removal of quantitative restrictions on the number of licences in overseas jurisdictions has been detrimental to consumer and industry interests (including the interests of drivers)
- The relative merits of a licensing approach that both caps assignment values via regulation and allows for the release of new licences based on expanding supply in response to pre-determined 'triggers' or changes in key performance indicators.

The inquiry's deliberations are summarised in the following sections.

3.3.1 The impact of reform on the value of existing licences

The inquiry rejects the notion that the proposed licensing reforms will cause existing transferable and assignable licences to become worthless or have a zero value.

The inquiry's proposed reform outlined in its Draft Report was to sell new taxi licences at a price payable upfront at the start of each year. This will affect the value of tradeable and assignable taxi licences. However, they will retain a significant value, although it is not easy to predict their final value as they will remain subject to market forces. To understand the likely value of licences post-reform, the inquiry has examined how the new licences will affect the profits of licence owners.

An operator in Melbourne with the option of a $20,000 annually-payable licence issued by the Victorian Government will use this as a benchmark in dealing with licence owners. The price of licences will fall until the return earned from holding the licence is no higher than the alternative of buying a licence with an annual fee of $20,000.[21]

There are some reasons why a taxi operator may prefer a government licence. For example, the Government may be seen as a better lessor because it is more reliable and easier to deal with – therefore, an operator might only be willing to pay less than $20,000 annually for a privately-held licence. However, the inquiry concludes this will be more than outweighed by a preference for privately-held licences for two reasons:

- An existing licence can be offered on better payment terms than a government licence. Using a discount rate of eight per cent, a licence holder could charge an extra $73 per month by offering these terms – nearly an additional $1,000 per year
- Leasing an existing licence would not add to the total stock of taxis, which operators will prefer.

21 This assumes that operators can make $20,000 per year from operating the taxi. If that was not the case, then the licence value will fall to a level consistent with that lower stream of income. No new licences would be acquired at the $20,000 annual price

The inquiry also notes that claims that licences will be assigned at well below $20,000 are not supported by evidence available from the market for hire car licences. VTD data indicate that these trade privately at (or very close) to the government-determined price for new licences ($55,000 excluding GST).

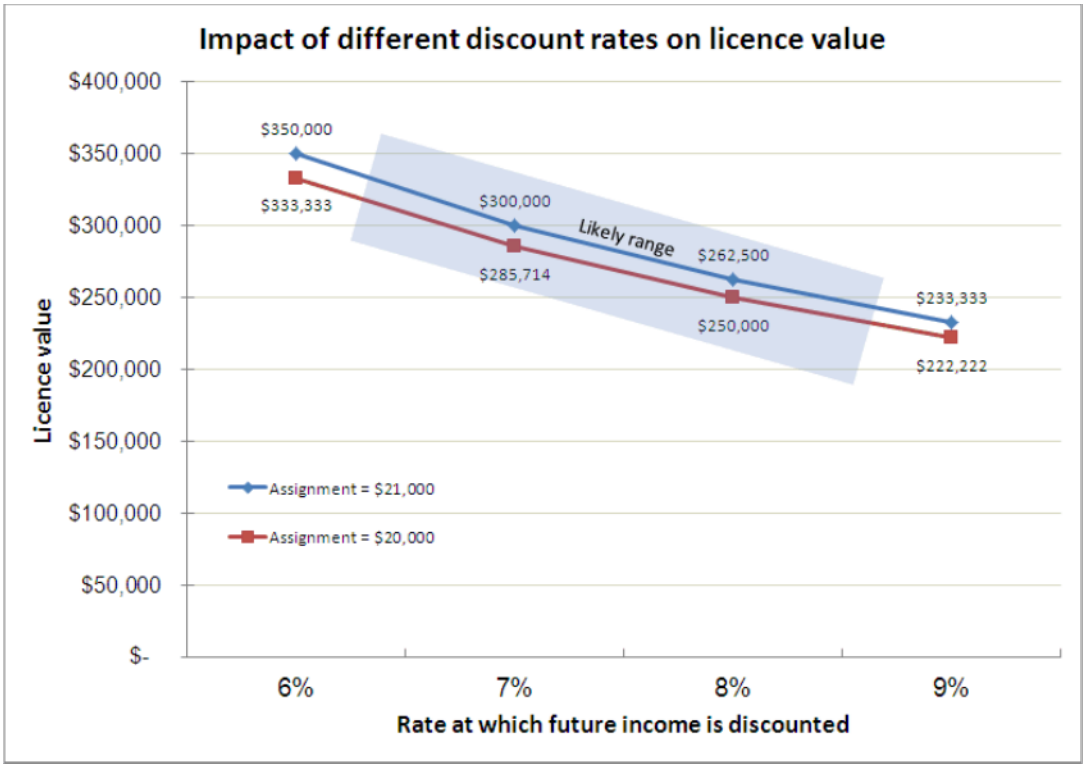
How much licence values will fall will depend upon how prospective purchasers of licences value an income stream of $20,000 to $21,000 per year in perpetuity (or a shorter period, if thought appropriate). This will depend upon how they discount future returns; how they discount future returns will depend upon: (1) returns available on other assets; and (2) the risk associated with taxi licences in the future. Different investors will have very different perceptions of these things, meaning it is difficult to give a precise answer about likely discount rates and therefore licence values.

The inquiry's expectation is that, at the present time, an appropriate discount rate for an investor is in the order of seven to eight per cent. This is based on:

- The long-term government bond rate (10 year) being around 3.2 per cent. This is a good measure of returns available from very safe assets (a risk free rate). It incorporates expectations of inflation and a real rate of return (albeit a very low one, as the long-term bond rate has recently hit historic lows)
- Information compiled by the inquiry indicating that banks lend against taxi licences at a rate of between nine and 11 per cent [22]
- The regulatory risk of taxi licences being somewhat reduced as a result of reforms (that is, the 'locking in' of the licence value in legislation gives more certainty)
- The historic yield on licences being in the order of six per cent on average, which likely includes some allowance for growth in the assignment price.

The difference made by alternative discount rate assumptions is summarised in Figure 1.

Figure 1 Effect of different discount rates on valuation of a taxi licence



22 These rates would now be lower given interest rates have fallen since this information was compiled in late 2011.

In areas outside Melbourne, the annual new licence prices are lower and consequently the value of existing licences will also be lower. The inquiry's estimate of the range in value is shown below, based on a discount rate of between seven and eight per cent.

Table 3 Estimated licence values, after inquiry reforms

Indicative licence value, by zone	Rate at which future income is discounted	
	7%	8%
Urban zone – value at $16,000	$228,571	$200,000
Regional zone – value at $10,000	$142,857	$125,000
Country zone – value at $3,000	$42,857	$37,500

3.3.2 The prospects of 'excessive entry'

The inquiry notes that many in the industry appear to be confused by the removal of the restriction on the number of licences available and have equated this incorrectly to free entry, as occurred in New Zealand and Ireland.

The inquiry's licensing reforms have not been designed to induce a significant amount of new entry in the short term. Rather, they are designed to redistribute some revenue from licence holders to drivers in the short term and, in the longer term, allow market forces (as dictated by changing demand for taxi services) to have a much greater role in determining the supply of taxis.

The inquiry assessment is that there will only be a limited amount of new entry in the short term. The reason is that the combination of a relatively high fixed yearly charge, plus an obligation to pay contracted drivers a greater share of the fare box, will not be attractive to many new entrants. Merely because the number of licences is unlimited does not mean a vast number will be released. (Rational) entry decisions will be driven by the expected profits that can be earned from operating a taxi.

The inquiry's modelling of entry into the metropolitan Melbourne market at a $20,000 licence value – and with higher payments to drivers – indicates there would be no or minimal entry if all drivers receive the higher driver payments, but that up to 400 new taxis might enter in the short term if new licence owners were willing to pay themselves a lesser proportion of the fare box than their engaged drivers. While the modelling must be considered indicative (as actual entry decisions may depend also upon a number of variables that are not captured in the modelling), the inquiry considers it presents a reasonable guide to likely behaviour.

The inquiry's analysis indicates that claims of a 'flood' of new taxis, leading to declines in service quality, traffic congestion and falls in driver earnings are misplaced. The following box describes how the inquiry reached this conclusion.

The inquiry considers that the primary effect of the proposed licensing reforms will be to loosen supply constraints in the longer term, so that market participants can determine the balance between supply and demand. A policy of having licences available for a fixed price no longer requires the Government to be involved with licensing decisions, reducing distortions associated with licence processes. The inquiry's moderate approach means that the path to the new industry structure will be gradual and avoid the worst outcomes that can be associated with a rapid transition.

Estimating the number of new licences issued under the inquiry's licensing proposals

The inquiry estimates that the new condition that drivers must receive 55 per cent of the taxi's revenue under the Driver Agreement will add around $7,500 in costs per year for the average operator. The price point of $20,000 set for new conventional licences in metropolitan Melbourne was chosen specifically to leave operators roughly 'indifferent' to

paying this price plus the additional driver remuneration costs or paying the current indicative assignment value of $27,000 to $30,000.

The implication of this is that there should be little new incentive for a potential operator to enter using one of the Government's new licences and that an operator keen to enter at $30,000 (with no driver remuneration changes) should, in principle, be no keener to enter at $20,000 (with the driver remuneration changes). Indeed, there is one good reason to continue to assign a licence rather than buy a new one – because it will result in another vehicle in the fleet. This alone suggests that there will be little new entry in the very short term as a result of the change in policy.

Against this proposition, there are four factors that might support new entry occurring:

1. Capital constraints: New entrants are better able to enter at $20,000 than $30,000, due to capital constraints that mean they cannot source the higher amount from banks or other sources. This could be an issue for a relatively small number of buyers.
2. Optimism bias: For some reason, potential entrants may believe they have a better chance of making a return than before. The WAT release in 2010 and 2011 appears to show that there is some element of over-optimism about likely returns.
3. Better lessor: The Victorian Government might be perceived to be a 'better' lessor than a private licence owner, perhaps because there is less chance of the Government behaving opportunistically compared with a private licence holder.
4. Owner / drivers: Because the fixed cost that needs to be recovered is lower, an owner/driver could predominantly drive the vehicle, implicitly accepting less than the payment implied by the new 55/45 split, and work for lower wages and still make a return on the $20,000 fixed cost. This seems plausible, but only to a limited extent. The inquiry's data suggests that the average vehicle currently works around 5,550 hours per year. On average, a vehicle must earn $5.50 per hour to recover a $30,000 assignment fee. To earn that same $5.50 per hour for a $20,000 licence would require the vehicle to be driven for around 4,000 hours, assuming no change in fares and vehicle revenue. This is equivalent to a standard full time driver (60 hours per week) plus another 25 hours per week (two to three shifts). This could prove attractive to existing full-time drivers.

It is not possible to quantitatively estimate the first three effects. The inquiry has estimated the possible size of the fourth effect using two kinds of data: modelling of the market and benchmarking from experiences overseas.

Financial modelling

The inquiry has developed an economic or financial model that captures the key effects of changes in licensing policy. The modelling broadly supports the notion that little entry should be expected in the very short term, due to higher driver payments.

The inquiry's modelling can also be used to capture the impact of an increase in owner/drivers who can avoid, to a degree, the cost increase imposed by the increased driver revenue share.

Modelling undertaken by the inquiry suggests the following:

- If licence prices were zero and there was no reduction in fares to reflect the reduction in economic rent or a change in driver costs, the number of full time licensed taxis in Melbourne is estimated to reach 6,200 (around a 50 per cent increase). This is a 'full deregulation' of entry with no other changes. This is not being recommended by the inquiry.[23]

The inquiry has recommended the introduction of new licences priced at $20,000 per year, which will lower the rental price of existing conventional licences. The impact of this policy depends upon what is then assumed to happen to other costs and revenues.

- If licence prices were $20,000 but the variable cost for drivers was increased to reflect a 55/45 split, and the taxi was solely driven by bailee drivers, the number of licensed taxis in Melbourne would only increase marginally in

23 This is lower than some estimates provided to the inquiry or observed in overseas jurisdictions. It should be noted that this estimate is for the number of taxis that would work 'full time'; it is possible that more taxis would be licensed but not work as many hours

the short term, by up to 100 taxis. This is because the increase in driver payments would entirely offset the lower licence price. This result is not surprising because the increase in operator costs was a major reason for setting a new licence price at $20,000.

- Assuming that the licence was purchased by an 'owner operator', who could implicitly pay themselves less than the 55/45 driver split, then the number of licences might increase to 4,500 (assuming no other growth in demand). This is an increase of 400 taxis or 10 per cent. This is based on paying a bailee driver around one third of the time the vehicle is on the road, with the operator driver driving a 60-hour week.

These cases are discussed further in the Annex.

Over time, the growth in the number of taxis will be determined by the nominal profitability of operating a taxi. In turn, this is determined by demand, fare and costs growth. The inquiry's modelling, which factors in estimates of market growth in demand, costs and fares, suggests that if demand, fares and costs all increase by three per cent per year, after five years around 600 or 15 per cent more taxis could be expected than in the base year (which is based on market conditions in 2011-12).

Overseas experiences

There is some relevant material in the experiences of major cities in New Zealand and Ireland. There was a full deregulation in these jurisdictions, meaning that licences became free virtually overnight. Again, this is not the approach being proposed by the inquiry, but it provides a realistic balance to claims that the inquiry's proposal could lead to increases of 300 per cent or more.

In Dublin, there was an approximate doubling of supply of private hire vehicles between 2000 and the peak in 2008 – from around 6,000 to a 13,000 peak (now around 12,000). That is just over a 100 per cent increase. (It is necessary to compare not just taxi numbers because there was a significant shift into taxis from hackney – or pre-booked – services).

Morrison (1997) reports an increase of around 100 per cent, from 454 to 932, in the Wellington region of New Zealand.[24]

Teal and Berglund (1987) report an average increase in US cities that deregulated entry of 52 per cent of the existing fleet, excluding the outlying result of 127 per cent in San Diego.[25]

All of these outcomes resulted from a close to 100 per cent reduction in licence rental value. The inquiry is proposing a 33 per cent reduction in rental value: from around $30,000 to $20,000. However, there are two reasons to expect the number of new taxis to be much less than 33 per cent:

- New licences come with the condition that drivers must receive a greater share of the fare box than they do presently. This means that the actual cost reduction for an operator is much less than the full $10,000.
- A licence price of $20,000 is still a significant barrier to entry in the short term. In particular, it will not result in the entry of large numbers of taxis that work part time, as occurred in New Zealand and Ireland.

The inquiry considers that it would be more reasonable to assess the effect of lower licence prices on the basis of a reduction in licence rental price of around 8.5 per cent (that is, the reduction implied from $30,000 to $20,000 plus the $7,500 driver payment increase) and apply this percentage to the size of the effects experienced in fully deregulated markets. This reduction is applied below. It suggests that the amount of new entry could be between five and 10 per cent – or 177 to 397 new taxis.

Dublin:

Estimated upper-bound entry effect based on 8.5% of total effect: 10%

Number of new taxis: 397

US cities:

24 Morrison, P.S. (1997), 'Restructuring effects of deregulation: the case of the New Zealand taxi industry', Environment and Planning A 29, pp. 913-928

25 Teal, R. and Berglund, M. (1987), 'Impacts of Taxicab Deregulation in the USA', Journal of Transport Economics and Policy USA 21, pp. 37-56

Estimated upper-bound entry effect based on 8.5% of total effect: 9%

Number of new taxis: 358

Wellington:

Estimated upper-bound entry effect based on 8.5% of total effect: 4%

Number of new taxis: 177

Average:

Estimated upper-bound entry effect based on 8.5% of total effect: 8%

Number of new taxis: 311

Neither method takes account of the possibility that owner drivers who can afford the $20,000 licence would assign the licence off an existing licence owner who would prefer to no longer operate. Again, this indicates that entry predictions are likely to be upper bounds.

3.3.3 The likelihood of 'irrational' entry

A number of industry submissions suggested to the inquiry that even though entry may appear to be unviable, there was likely to be a lot of entry by new licensees that was unlikely to be profitable. In other words, a degree of 'irrationality' could be exhibited by participants in the taxi industry. This irrationality may reflect different factors:

- The average education of taxi drivers – particularly financial education – is limited
- Potential licence owners may be tempted to 'buy a job', which includes some sacrifice of financial return for the security of employment
- The current licensing restrictions give the appearance of significant wealth creation, so that a sudden release of an unlimited number of licences at a lower price than that prevailing in the market currently may cause people to over-estimate their likely earnings.

Some industry participants also thought that new licences would exacerbate the 'driver shortage':

> *Many of the applicants for these new licences will be existing drivers within the current industry. By them applying for these licences will only result in existing vehicles being left with no driver. With the current situation of a lack of drivers, these driver positions will be hard to fill.*[26]

It is difficult to see that such behaviour could be sustained over an extended period, but it is possible that such effects could occur in the short run and be unnecessarily disruptive if the new entry is not financially sustainable.

Some support for the view that industry participants may behave irrationally – or are at least poorly informed – can be found in the prices paid for the GMTLR WAT licences in 2010. At the inquiry's hearings, the VTA (Mr David Samuel) stated:

> *… there were guys two years ago willing to pay $26,000 to $26,800, I think, for a wheelchair accessible taxi licence, which was considerably higher than the private market value for an assignment at that time. That would, in my personal view, not represent rational behaviour in an economic sense.*[27]

The inquiry's analysis also supports the view that new WAT licence owners are very likely to have overpaid for these licences. The inquiry's analysis suggests that, in total, and assuming growth of three per cent per annum in the annual fee, these licence owners are likely to pay around $300,000 over the 10-year licence term. This is even more than a purchaser of a 10-year conventional licence will have effectively paid when the fixed payment of $180,000 is

26 Dandenong Taxis E441, p. 3

27 TII hearings, submission by Mr David Samuel, VTA, 14 August 2012

amortised over the same 10 years.[28] This appears to be counter to expectations that conventional licences tend to be more profitable to own than WAT licences due to the lower capital and operating costs of a conventional taxi.

The inquiry has also heard many other stories of assignees of taxi licences paying exorbitant amounts for access to the licences. Again, this tends to be unsustainable and leads to severe pressure to cut costs.

Against this potential for irrational entry is that the inquiry's proposal does not radically reduce the costs of new entry by operators. Those with an interest in operating a taxi can already assign licences for around $30,000 per year. Indeed, the inquiry received many submissions from drivers seeking licences at a lower cost than $20,000 per year because this did not represent a feasible point of entry for them.

As noted, the inquiry is not expecting a great deal of new entry in the short term, as the inquiry's modelling suggests it would not appear supportable given the industry's current financial position. Therefore, it would be concerning if a very large number of new taxis were to enter. For this reason, the inquiry considered ways to ensure that entry driven by false expectations of profitability is limited, including:

- Improving the business education of prospective licensees, and their access to relevant industry data, so that they can make an informed decision about whether to purchase a new licence
- Limiting entry to a certain number of new licences in each period of time (such as every 12 months)
- Linking new entry of taxis to the other reforms proposed by the inquiry, including better quality drivers and higher payments for those drivers
- Monitoring industry performance with a view to slowing or stopping entry if reform was not delivering the expected results.

The inquiry notes there are significant flaws with the last three of these approaches.

The approach of linking new entry of taxis to driver quality reforms has the benefit of preventing a rapid influx of new vehicles (which the inquiry considers is not economically feasible at the current time) and should also ensure that those permit holders that do enter are committed to offering a quality service with a better standard of driver. However, this approach would create an additional regulatory burden and may prevent existing good drivers from entering the industry as permit holders.

The approach of trying to limit entry to a set number per period is even more problematic. The first reason is that it maintains the perception that licences are in scarce supply. Perversely, rather than decrease the likelihood of irrational entry, it could increase the amount of irrational entry because of a rush to 'get in first' before other prospective licence holders. The second reason why the inquiry does not favour limiting entry is because this opens up opportunities for the industry to lobby against the issuing of new licences, which the inquiry considers will be detrimental to industry performance in the longer term. It also places the responsibility on the Government to determine the 'right' level of supply.

The inquiry is not convinced that there will be widespread new entry arising from the new licensing policy, particularly if measures are put in place to better inform licence applicants. However, the inquiry does consider that it is important to ensure that any new entry is not caused by misinformation and that new entrants improve rather than decrease driver quality across the fleet. This is an area in which the future regulator should make a serious attempt to provide information and education, and which the industry – through its representative associations – could usefully provide education and business development programs for potential new entrants.

3.3.4 Drivers will be better off under the proposed reforms

Drivers have been major losers under the current restricted entry system. The evidence shows that restricting entry benefits licence holders at the expense of drivers, who earn much less than the minimum wage.

Drivers who argued against the inquiry's proposals on licensing fear that having more taxis on the road will diminish their earnings further. As discussed above, the inquiry does not consider there will be vast numbers of new entrants.

28 $180,000 equates to an annual stream of around $28,000 per annum assuming a discount or borrowing rate of nine per cent (and $27,000 at eight per cent)

In such an environment, raising driver's share of the fare box is highly likely to increase driver earnings – although exactly how much will depend upon whether the changes induce existing vehicles on to the road at times when they are currently not on the road.[29] In any event, merely restricting the number of licences is not an effective way of keeping driver remuneration up. While licensing restrictions can mean that vehicles become significantly more productive, generating more revenue in the 'fare box', it is licence owners that benefit from this in the longer term, not drivers.

As the inquiry does not consider it likely that there will be large numbers of new taxis on the road, it expects that its proposals should significantly improve the prospects of drivers by:

- Providing them with a fairer split of revenue
- Tightening up entry requirements to improve service
- Giving them more opportunity to become licence holders.

3.3.5 Service will not reduce in regional areas

Concerns were expressed about the effect of more entrants on the quality of service offered in regional areas and, in particular, on requirements and incentives to service passengers at quiet times.

The inquiry notes that all taxis currently licensed in Victoria are subject to requirements about availability. However, these requirements are not widely followed: many taxis are not available at particular times. Indeed, it would be highly wasteful to enforce such a regulation. In regional areas, the inquiry understands that networks largely take on the role of ensuring an adequate service through the week (although there are no particular standards that are required).

The inquiry is sceptical that new entry would cause a major loss of service. The argument appears to be that incumbents use profits from servicing markets at busy times to cross-subsidise unprofitable work at quiet times. However, there are a number of features of how taxi markets work that do not suggest this outcome is very likely:

- Incumbent networks already have a very strong market position that will be maintained even after more licences are introduced. This means that they are not likely to lose much profitable work
- Servicing customers at quiet times is not particularly costly. First, only a limited number of vehicles need to be out to service the demand. Secondly, operating costs for taxis, including labour but also LPG and many vehicle costs, are only incurred if there are trips actually made at these times
- The inquiry's proposals also provide much greater fare flexibility for operators in regional and rural areas, meaning that higher costs could be reflected in higher fares at these times.

Finally, there are also reputational benefits for networks in saying that they provide a full service across the week, meaning that having a service available at higher cost times provides benefits at busy times.

Some empirical evidence on this can be found from a New Zealand study. Gaunt (1996) found that deregulation of entry and fares in New Zealand had only a very minor effect on services in smaller centres. They concluded that "especially in the smallest towns, taxi regulation and deregulation is of little consequence".[30]

3.3.6 The reforms are not a revenue-raising measure

Many submissions questioned the inquiry's motives in seeking to release more licences, pointing to the Victorian Government's existing role as a 'landlord' for taxi operators and equating their role in the industry with those of 'absentee' private licence owners.

The fact that licences are restricted means they attract a scarcity value: that is, more money can be recovered from consumers than is strictly required to keep all existing taxis operating and recovering all of their costs. This scarcity value currently accrues to licence owners, including the Government where it has sold these licences (as occurred with the GMTLR licence release).

29 This is discussed in chapter 13 of the Draft Report

30 Gaunt, C. (1996), *The Impact of Taxi Deregulation in Small Urban areas: Some New Zealand evidence*, Transport Policy, Vol. 2. No. 4, pp. 257-262, p.259

Rather than setting a price for new licences, the Government could adopt alternative approaches to allocation. However, the alternative of issuing licences for free to applicants would simply result in a large transfer of wealth from Victorian taxi users to those lucky enough to obtain the licences. Under the inquiry's proposed approach, the money from new sales will go to either Victorian taxpayers or be directed towards funding reforms to improve services for taxi users, such as expanding the MPTP program.

From a practical standpoint, the inquiry also notes that the new licence proposal is not expected to produce significant new amounts of revenue for the Victorian Government. Rather, the reform proposal is an attempt to provide a balance between freeing up the supply of licences in the longer term to reflect changing consumer demands for taxis with protecting the interests of existing licence holders, for whom a large fall in the value of their licence could cause financial difficulties.

3.3.7 Overseas experience supports the proposed reforms

The inquiry commented extensively on international experience in the Draft Report, as well as commissioning research into the regulation of taxi markets in other jurisdictions.[31] The inquiry concluded its review of international experience by noting that 'open entry' at no charge and with no other constraints about driver wage arrangements would lead to a large number of entrants. In certain circumstances, this can cause problems with 'too much' entry – for example, if fares are maintained (Ireland) or even increased (the Netherlands). The result has been falls in vehicle productivity and (arguably) falls in driver earnings, which have more than offset gains to consumers from greater availability.

The inquiry reiterates that its proposal on licensing is very different to the open entry schemes in place in New Zealand, Ireland and the Netherlands. The inquiry's path to reform is much more gradual, with a much slower rate of entry likely and a much greater emphasis on ensuring that quality is maintained and improved through a combination of regulatory measures and enhanced customer choice between taxi service providers.

3.3.8 Peak service issues

Industry representatives were united in their view that the proposed licensing policy would lead to too many taxis at off-peak times. These representatives argued that there is already a sufficient number of taxis to meet this demand and that the inquiry's data supports this assertion. The inquiry agrees that average utilisation is relatively poor, reflecting both weak demand generally and a pattern of demand that varies significantly across the week.

These facts have been used to support the notion that the inquiry should focus only on more licences for peak times or (in what amounts to the same thing) on selling licences based on variable usage, such as operating days or kilometres driven.

The inquiry's view is that such schemes have the potential to add complexity to the existing licensing scheme and will have unclear effects on service and on the existing taxi fleet. In addition, they provide no clear path to long term licensing reform.

The inquiry also notes that in a system where licences have no intrinsic value (no scarcity), it would be easier for an operator to work only in the peak times, as it would reduce the fixed costs of operating quite substantially. The nature of the restricted licencing system in Victoria, with high and fixed assignment prices, means that operators are under pressure to operate at all times just to cover these fixed costs.

This suggests that, rather than produce more restricted licences, a better approach would be to reduce the fixed costs of operation. The inquiry's proposed approach, which includes fixed licence fees (that do not vary with the number of trips, days, etc.), will make it somewhat easier to work only in times of higher demand. As the value of licences falls in real terms over time (as the licence price is fixed), it will become more and more viable to do so. In the short term, changes to pricing can also be used to change the balance of working incentives – by making it more attractive to work at peak times (by raising prices) – which reduces the need to work at off-peak times.

31 See chapter 9 of the Draft Report. Also see Jaguar Consulting Pty Ltd (2012) *Overview and analysis of possible transitional strategies: Moving from a tightly restricted supply model to an open entry taxi industry – Prepared for the Taxi Industry Inquiry* and Hara Associates (2012), *Taxicab Regulation in North America – Prepared for the Taxi Industry Inquiry.*

3.3.9 Assignment capping and formula-based licence releases

It is evident from submissions and from evidence given at the inquiry's hearings that major industry stakeholders would strongly prefer the adoption of an approach to licensing that was responsive to changes in the demand for taxi services and/or linked to key performance indicators. This policy could be adopted in conjunction with caps on the value of licence assignments to hold these at current levels.

The perceived benefits of this approach from the industry's point of view are that it would enable certain changes to be made without significant detriment to existing licence holders. Assignments would not increase in real (inflation adjusted) terms over time and would essentially ensure that the costs of the restrictions on licences would not significantly increase over time. The industry views models in operation or development in NSW, Canberra and South Australia as reasonable starting points.

The inquiry is encouraged by the industry's recognition that increases in assignment prices are undesirable for industry performance, as these costs must be recovered from consumers in some fashion, and notes the industry's preference for managing this problem without increasing the number of licences.

There are some fundamental similarities between the industry's proposed approach and the inquiry's recommendations (discussed in the following box). However, there are a number of reasons why the inquiry's approach to the release of new licences is superior to a formula-based release (and regulated assignment capping):

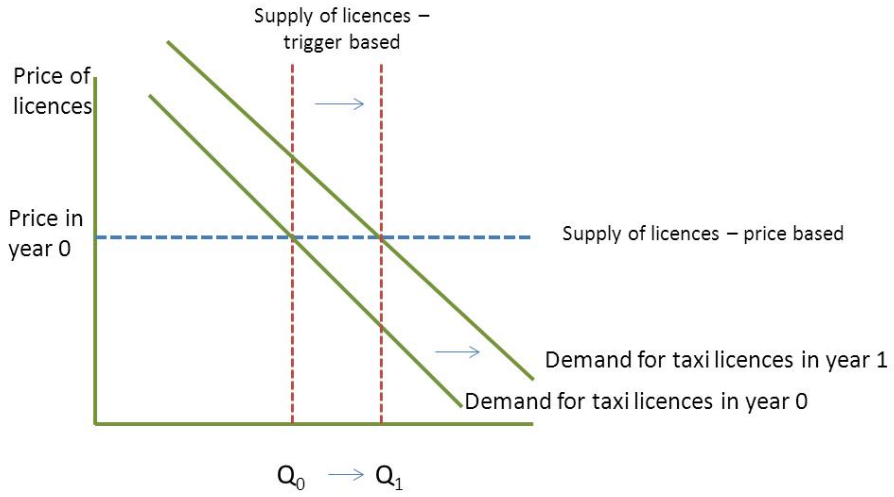
- It will be less subject to ongoing lobbying from industry interests to adjust the formula
- It places judgements about taxi demand in the hands of those in the industry, or new entrants to the industry, and means there is no need to determine the appropriate criteria for the release of new taxis. This is important as changes in taxi demand and cost vary by many different factors that are not straightforward to measure and proxies for demand (such as Gross State Product) are often not closely linked to actual taxi demand
- It will decrease the effect of the licensing restrictions over time, as the price will be fixed in nominal terms
- It will create immediate room for better-paid drivers and increase the potential for this over time as the relative share of licence value in the fare reduces
- It will eliminate or significantly reduce problems associated with exploitation of licence owners or operators by providing an outside option for operators and a benchmark price for licence owners.32 In contrast, regulated assignment capping is highly interventionist and difficult for a regulator to manage. For example, implementing a blind trading system or a temporary permit system with dispute resolution are both likely to be costly to set up, are likely to create legal disputes between the regulator and licence owners, and will create strong incentives for avoidance where the true value of the assignment is above the regulated price.

Comparing quantity and price restrictions on taxi licences

In the short term, these two approaches should be very similar in their effects.[33] One approach focuses on allowing the price of licences to vary and fixing the quantity of licences. The other fixes prices and allows quantity to vary. This can be illustrated in the following diagram, which compares the effects of the two policies assuming an increase in the demand for taxi services and thereby an increase in demand for taxi licences. The red lines are the 'trigger based' approach, in which supply is fixed (vertical) but shifts in response to the increase in demand for taxi services; the blue line is supply under a price-based approach that is fully flexible (horizontal). In both cases, licences increase by (Q_1 – Q_0) and the price of licences does not change.

32 This point is discussed in detail in chapter 10 and Appendix E of the Draft Report

33 One way to think about the inquiry's approach is that it is a quantity trigger but one that uses as the trigger the change in the assignment price. Any tendency for the price to increase will be met by an increased quantity of licences.

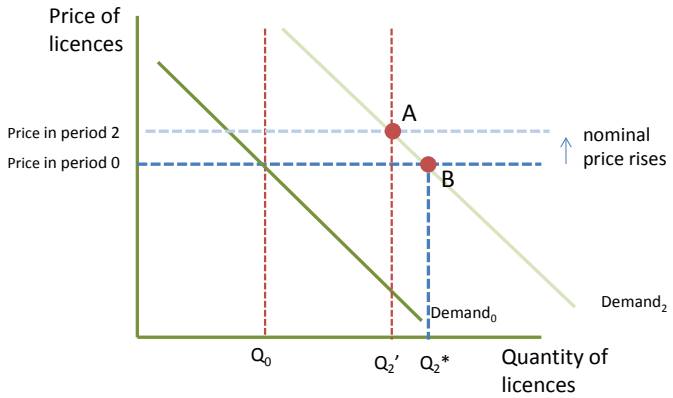


The key *differences* between the policies play out over longer time periods and can be summarised as follows:

The 'trigger' approach to releasing licences increases supply as demand increases or as costs fall. If it accurately reflects changes in demand, it should keep the price of the licence fixed in real terms (or relative to fares, which will increase over time).[34] This is shown as point A in the following figure, associated with a new licence quantity $Q_{2'}$.

The price-based approach to licensing also increases supply as demand increase. If accurate, it should expand supply while also keeping the price of the licence fixed in nominal terms. This is shown as point B in the following figure below, associated with a new licence quantity Q_2*.

This difference is highlighted in the following figure, which highlights longer term changes between periods 0 and 2.



A: Price / quantity under trigger approach
B: Price / quantity under price approach

This is an important long term difference. The inquiry's approach would keep prices fixed in nominal terms and they would decline in real terms, meaning that the cost to consumers will be lessened over time. In contrast, the industry's preferred approach would allow prices to rise over time in nominal terms, even while keeping prices fixed in real terms. This will ensure that consumers keep paying more for taxi services than they need to.

Other kinds of licensing reforms considered by the inquiry

34 If the nominal licence price is included as a 'trigger' to release more licences, the differences between the two approaches will be muted as higher licence prices will then drive more licence releases.

The inquiry conducted extensive research into different means by which licensing restrictions could be relaxed. Many of these have been explicitly designed to minimise the financial impact on existing conventional licence owners. A balance needs to be struck between affordability for Government, returns to licence owners and consumer benefit.

The following options were considered and ultimately rejected by the inquiry.

- *A full licence buyback and re-issue scheme* (with licences re-leased to fund compensation and made free in the longer term). This approach is similar to that attempted but later abandoned in the Northern Territory.
- *A partial licence buyback and re-issue scheme.* This approach would be similar to the above scheme, but only offer licence holders partial compensation. Therefore, it implies a lower cost of reform to consumers and/or government.[35]
- *Trigger models based on demand assessments and other key performance indicators.* This method is discussed in section 3.3.9.
- *Issuing free licences or shares of licences to existing licence owners.* Under this approach, owners of valuable licences would receive a further licence or part-licence to essentially offset the fall in capital value of their licence.
- *Releasing a set percentage of new licences each year, with proceeds to go to existing licence owners.* The Industry Commission recommended this approach in its 1994 report on Urban Transport.[36]
- *Releasing licences at administrative cost after an extended period,* which would allow for some compensation based on the earning potential of the restricted licences until the deregulation.

Each of these methods has flaws which mean that, on balance, the inquiry prefers the option of selling licences at a fixed price. The flaws can be considered as one of four kinds: the method would be overly generous to licence holders; it would have a greater adverse impact on licence holders; it would imply a strong commitment from Government that would be difficult to maintain; or, it would be unnecessarily disruptive for the industry.

The inquiry considers that full buy-back approaches are very difficult to justify on a number of grounds. The first is that the returns or yield on the market value of licences is relatively high because it factors in risk, including the risk that changes in licensing or other kinds of regulation (such as changes to fares) will reduce licence returns.[37] By paying out the full licence value, the Government would effectively be fully compensating all licence owners for the risk that has been priced in to the price – akin to paying out all bets on a horse race before the race has been run.

Partial buyback schemes have more appeal. However, defining the scope of the buyback is difficult and involves judgements that are somewhat arbitrary and inequitable between different groups of licence holders. For example, approaches that set payments on the basis of historical purchase price can help to ensure that overall returns on licences are 'reasonable', but do not take account of individual circumstances (for example, if an owner is heavily dependent on the income derived from the licence). In contrast, the inquiry's approach offers a base licence value that is equitable across all licence owners.

The benefits of the buyback and re-lease approach compared to the inquiry's approach are that it might provide more immediate consumer benefit by getting 'more taxis on the road'. However, the size of this benefit is ultimately dependent upon the new licence price that is set. The inquiry's view is that a new licence price that would induce substantial new entry would not provide for the level of compensation for licence holders that the inquiry's proposals implicitly provide.[38] Nor would such an approach do anything to address the key problem of driver quality: allowing a

35 An example of such a scheme is proposed in Deighton-Smith, R. (November 2000), *Reforming the Taxi Industry in Australia,* National Competition Council Staff Discussion Paper

36 Industry Commission (1994), *Urban Transport,* Commonwealth of Australia, Melbourne

37 For example, banks will only loan money against taxi licences at higher rates of interest and with higher levels of security because there is greater inherent risk in the earnings and price of these assets than, say, housing or bonds. A safe asset with a guaranteed income stream of $30,000 per year, growing at three per cent per year, would be valued at upwards of $900,000. The difference between this value and current Melbourne licence values is indicative of the risk (including regulatory risk) that returns will be lower than this.

38 The approach proposed in Deighton-Smith (2000) provided for payments of around 27 per cent of the current market value of licences (in 2000). The inquiry's proposals are likely to result in licence value reductions of no more than 50 per cent.

large number of taxis on the road immediately will not improve driver quality. A final issue is that cancelling all existing licences would also create far greater disruption for the industry than the inquiry's proposals.

Issuing new licences (or partial licences) with proceeds to go to existing licence owners was also considered and modelled by the inquiry. The biggest difficulty with these approaches is that their effect on licence values (and actual compensation) is very difficult to predict. The inquiry's modelling suggests that these approaches will lead to steeper reductions in licence value than its preferred approach. For example, issuing all existing owners of valuable Melbourne licences with another licence (around 2,500 licences) would reduce the value of licences to close to zero. Nor would this kind of approach offer the potential for drivers to receive more, or provide a long term path to fewer entry restrictions.

Providing for a staged entry process in the future (such as deregulating fully in 10 years' time) is more appealing because it offers greater certainty, but would be impossible for a government to commit to and implement.

3.3.10 Treatment of GMTLR licence purchasers and WAT licence discounts

The inquiry received a number of submissions from licence holders who acquired their licences in the GMTLR process in 2010. Purchasers of WAT licences were broadly supportive of the new lower-price WAT licences, but suggested the prices of these licences could be reduced further. Purchasers of the 200 fixed term conventional licences suggested the inquiry should recommend some form of redress to address their particular circumstances.

Submissions from WAT licence purchasers raised the more general issue of the inquiry's approach to ensuring an appropriate level of WATs in the Victorian taxi fleet. Some WAT owners, including the Zebra Alliance, argued that licences are available 'on the counter' in NSW for only $1,000 per year and that this might be a more appropriate price point. More broadly, the inquiry has received some feedback that the $16,400 price in Melbourne (and the corresponding lower prices proposed for other zones) may be too high to encourage vehicle owners to continue to invest in WAT vehicles (licences) in preference to conventional vehicles.

In developing prices for new WAT licences, the inquiry's intention was to leave operators broadly 'indifferent' between applying for a WAT licence and a new conventional licence in Melbourne and areas in the Urban zone, while applying a more case-by-case assessment in other areas. This approach was adopted on the basis that the large recent increase in the WAT fleet in Melbourne appears sufficient to service wheelchair users in the near term.

The discount for WAT licences compared to conventional licences proposed in the inquiry's Draft Report was $3,600 per year. This was applicable to taxis in the Greater Melbourne and Urban zones. In Country and Regional zones, the inquiry recommended that there be no licensing discount, but noted that continuation of existing vehicle subsidies would fill a similar role.

The inquiry's proposed discount for Greater Melbourne and Urban zone WATs was based on an analysis of the difference between conventional Melbourne taxi licence and assignment values and those of WATs. This discount was estimated to be around 20 per cent (that is, transferable WAT licences were transferring at around 80 per cent of the value of conventional licences). Average assignments for M50 and M80 vehicles are in the order of 85 per cent of the conventional average. This seems to apply in both existing Metropolitan and Urban zones.

Information on licence and assignment values captures all relevant information about differences in both revenues and costs from operating a WAT versus a conventional taxi. Therefore, it may be that a WAT costs many thousands more than a conventional taxi to operate, but this appears to be more than offset by other revenue benefits, such as lifting fees and work at the high occupancy tariff.

However, further analysis by the inquiry suggests that the cost difference between WAT and conventional vehicles could justify less than the $3,600 reduction. The much longer vehicle lives for WAT vehicles (up to 10.5 years) significantly exceed those for conventional vehicles (six years) and particularly for used conventional vehicles (typically a four-year life), which make up a significant proportion of the Melbourne fleet.

In the following table, the inquiry compares the annualised[39] capital cost differences between different vehicles, taking into account the different vehicle lives, vehicle costs and (in the case of regional WATs) vehicle subsidies.

Table 4 Vehicle capital cost differences, taking into account vehicle life and subsidies

Annual capital cost	Metro / Urban	Regional
WAT, no subsidy	$ 11,500	
WAT, max subsidy		$ 3,500
Conventional used taxi	$ 9,100	$ 7,500
Conventional new taxi	$ 10,400	$ 9,500

Notes:
(1) WAT 'on road' cost = $80,000, max subsidy = $44,000
(2) Conventional vehicle 'on-road' cost = $30,000 used (two years old), $48,000 new
(3) Discount rate used is eight per cent

The inquiry concludes from this that:

- In Metropolitan and Urban zones, there is a capital cost disadvantage ($2,400) that appears to be more than accounted for in the WAT licence price differential ($3,600)
- There is a significant capital cost advantage to acquiring WATs under the subsidy scheme in regional areas ($4,000 or more if the vehicles are used until the end of their allowable life). To some degree, these capital cost advantages may be offset by operating cost disadvantages such as higher fuel and repair costs.

The inquiry finds that the WAT price in its proposed Metropolitan and Urban zones should remain subject to monitoring by the TSC to ensure that the proportion of WATs in the total fleet is maintained at a reasonable level and that there is not an overly strong bias towards the purchase of WAT licences.

In Regional and Country zones, the analysis above suggests that the size of the subsidy scheme should be reviewed to ensure it is necessary to provide for a reasonable balance of WAT vehicles in these areas. In particular, it may be preferable to reduce licence prices for new WAT vehicles in these areas rather than extending the subsidy scheme (by reducing the price by $3,600 in regional-zoned areas and making them available at no charge in country areas).

Returning to the specific circumstances of the GMTLR purchasers, the inquiry maintains its recommendation for purchasers of WAT licences in the GMTLR being allowed to convert to the new WAT licence.

The situation for the owners of 10-year licences for the 200 conventional taxis in the GMTLR (which were issued to commence between 1 July 2010 and 30 June 2011) is more difficult to resolve. In principle, the inquiry accepts that given that this sale was so recent and that the licences were acquired directly from the Government, it would be appropriate to ensure that these licence purchasers are not significantly disadvantaged. The inquiry does not consider it appropriate to convert these licences into 'full' licences, as this would result in these licence owners being better off than the owners of other licence types as a result of the reforms.

The inquiry's position is that it is appropriate to offer these licence holders favourable conversion terms to the new licences. The inquiry's assessment is that licences issued at no additional charge for a period up to the total licence period of 15 years will be sufficient to ensure that these licence owners are not substantially disadvantaged. This has been calculated as follows:

Calculation of additional licence term for 200 conventional GMTLR purchasers

Purchasers under the Government's GMTLR release of conventional licences paid a licence fee of $180,000. These licence owners will be worse off under the inquiry's reforms to the extent that they will be effectively paying more than $20,000 for a licence for the period in which these new licences are available.

39 The annualised cost difference is calculated using an annuity formula. This provides for both a return of capital (depreciation) and return on capital invested (interest charges).

Although $180,000 over 10 years is only $18,000 per year, this ignores the requirement for investors to earn a return on the capital invested: for example, if the $180,000 had been borrowed from a bank. If a cost of capital or discount rate of eight per cent is used, the 180,000 is equivalent to $26,825 per year. This is greater than the proposed annual price for a Metropolitan zone licence.

The inquiry has considered two methods to measure the 'loss' experienced by these licence purchasers: one based on an alternative scenario in which the licences were not bought under the GMLTR; and another scenario in which the new licensing policy was not introduced.

The first method assumes that rather than buy the GMTLR licence, the operator instead operated a taxi under assignment for two or three years (at the market rate of around $30,000) and then took one of the new licences. Assuming the new licences are available from 1 July 2013 (all vehicles came on the road on 1 January 2011), the net present value these licence owners would have paid can be calculated, incorporating 2.5 years at the current assignment rate and 7.5 years at the new licence price. This works out at $156,000, assuming an eight per cent discount rate. This makes the licence purchasers around $25,000 worse off in present value terms.

An alternative way to estimate the loss is to estimate the value of the licence in the middle of the third year (when the inquiry's reforms are likely to be introduced) under two different conditions: assuming that the new policy *is not* introduced and assuming it *is* introduced. The difference between the two values represents the loss. This requires an estimate of the evolution of assignment prices for conventional licences, as these will determine the remaining value of the 200 licences.

If income from the conventional licence starts at $26,825 and grows at three per cent a year for the 10 years, the expectation is that a licence holder could sell that licence for $142,700 after 2.5 years (1 July 2013). The value of the income stream with the inquiry's reforms after 2.5 years would be $90,500. The implied loss of value is $146,700 minus $90,600, which equals $52,100.

These two estimates represent some bounds for the loss of value by these licence owners. Offering an additional period of five years at no charge (in addition to the existing 10 years) will allow for an additional $100,000 in returns to be earned from the licence (in years 11 to 15). In present value terms, this is equivalent to $37,000. This should compensate these licence holders between the amounts assessed in the two methods set out above.

3.3.11 Brokers

In Chapter 10 of the Draft Report, the inquiry set out specific concerns with how markets in which taxi licences were being transferred or assigned are operating. These concerns primarily related to the role of taxi brokers. Licence brokers arrange for both the sale of licences and the assignment of licences, and take on the function of 'making a market' in taxi licences. They seek to match buyers and sellers, and the value they create in this matching provides them with a margin.

The inquiry considered that evidence of the spread of taxi licence prices, along with anecdotal reporting of unethical or illegal practices, indicated a market that is not functioning effectively. Further, the inquiry was concerned about the effectiveness of the regulations governing the conduct of brokers, particularly in light of existing regulations that already potentially capture taxi brokers (the *Estate Agents Act 1980*).

The inquiry notes that the influence of brokers should be reduced considerably as a result of its proposed reforms. Providing licences 'on the counter' (and abolishing the three year limit on assignments) will remove any leverage held by brokers over taxi operators and licence owners and should substantially reduce any assignment price uncertainty.

3.3.12 Other clarifications

The inquiry has made two other significant modifications to its draft recommendations to clarify their intent:

- The limit on the licence life to five years has been removed in favour of an annually renewable licence with no specific term
- The recommendation on licence prices has been amended to clarify that the licence price will not be further reduced over time, but will be fixed in nominal terms in perpetuity.

Simplifying taxi zones

3.4 Inquiry's views in Draft Report

Zoning restricts where taxis can work. Generally, only cabs that are licensed to a particular zone can engage in rank (expressed as 'stand at designated standing places') and hail work in that zone. However, it is possible for taxis to undertake pre-booked work in other zones.

The inquiry considered the current zoning policies in place across Victoria in Chapter 10 of the Draft Report and noted that zoning restrictions can cause three kinds of costs for consumers:

- They prevent the free movement of vehicles, restricting competition and choice
- They increase 'dead running' for vehicles, which increases costs for operators – and ultimately consumers
- They lead to poor service outcomes for consumers, as drivers refuse to take fares across zones (reflecting the increased cost of not being able to obtain a return fare to the originating zone).

The second and third kinds of cost are particularly high where zone boundaries are no longer appropriate given population growth or other developments.

A number of discrete issues about the effect of zoning regulations were raised with the inquiry, including:

- The designation of the Melbourne Metropolitan zone boundary
- Whether the Outer Suburban zones should be maintained or brought within the Metropolitan zone
- Service concerns in the Yarra Valley potentially caused by zoning restrictions
- The costs of Avalon Airport being in the Geelong taxi zone when much of the traffic from this destination is to or from Melbourne
- The impact of zoning regulations on competition between networks.

The inquiry found that current zoning policies cause a number of issues across Victoria. However, the inquiry also found that it was not possible to consider zoning approaches without also considering restrictive licensing. Restrictive licensing creates artificial shortages of taxis and, given that taxis will naturally gravitate to where the most work is available, zones ensure that areas of relatively lower demand have a taxi service. In countries with minimal barriers to entry of new taxis, taxis are not confined to working in particular areas.

Accordingly, the inquiry's approach to zoning reform has been conditioned by its approach to licensing reform and it has dealt with these two issues in a complementary way.

The inquiry's Draft Report made recommendations around a new zoning classification for Victoria. The inquiry grouped service areas with similar characteristics, primarily based on licence transfer values. Where no licence value was available for a current service area, a value was inferred by grouping areas with similar service populations and numbers of licences. In conjunction, the inquiry recommended a new licence price for these groupings, based on the average price of licences across the group and allowing for a reduction in the annual price to balance the return to licence holders with higher payments to drivers.

The inquiry also made recommendations to reduce the worst effect of zones, mainly through the use of 'overlapping' zones that allow some flexibility for operators and would reduce problems of fare refusal and dead running costs.

The inquiry supported a four tier system to strike the best balance between consumer interests and existing industry interests. New and existing licences would be authorised to operate in a taxi zone, with corresponding prices for new licences (as set out in Table 5).

Table 5 Draft recommendations on zoning service areas and licence prices

Zone	*Zone 1:* **Greater Melbourne**	*Zone 2:* **Urban**	*Zone 3:* **Regional**	*Zone 4:* **Country**
Description	This zone should combine the existing Metropolitan and Outer Suburban zones (Dandenong and Frankston)	This zone should include the regional cities of Ballarat, Bendigo and Geelong (currently deemed as separate Urban zones) and other service areas where current licence values are, or would be expected to be, above $200,000	This zone should comprise service areas where current licence values are, or would be expected to be, between $100,000 and $200,000	This zone should comprise all other parts of the State not covered by Zones 1, 2 and 3
Licence price	Greater Melbourne – conventional $20,000 per year; WAT $16,400 per year	Urban – conventional $12,000 per year; WAT $9,400 per year	Regional – conventional and WAT $6,500 per year	Country – conventional and WAT $2,000 per year

3.5 Issues raised in submissions

A large number of submissions responded to the recommendations proposing a new taxi zone system for Victoria. These responses focused on two main themes – concerns about the amalgamation of Outer Suburban and Metropolitan zones, and a second set of concerns around the new Urban, Regional and Country classifications.

3.5.1 Melbourne zone

Concerns were raised by outer suburban networks about the proposal for a consolidated Greater Melbourne zone. Networks, and to a lesser extent passengers, were worried that the new model would lead to a loss of local knowledge, as drivers would chase higher fares in the central city and at the airport. Some licence holders also expressed concern that incoming operators would not provide the same levels of customer service as the present fleets of taxis in these areas.

> *If you include Dandenong and Frankston in Melbourne all that will happen is that the Dandenong and Frankston cars will come to Melbourne. There will be fewer taxis in Dandenong and Frankston and further overcrowding in Melbourne.*[40]

The two networks operating in Dandenong and Frankston did not support the merging of their zones with a larger Greater Melbourne zone. The Dandenong network pointed to its higher level of service than Melbourne taxi networks and suggested that because local service providers were meeting certain levels of service, there should be no change to the zoning regulations. The Dandenong submission recommended further zoning be extended to outer suburban areas to cater for the growing regions of Melbourne, nothing that:

> *The reason we have higher satisfaction levels are because the taxis in the outer suburban zone are dedicated to servicing the zone and return to the zone to ensure there are taxis available.*[41]

Frankston Radio Cabs believed the outer suburban boundaries should remain and could be extended to take in the Mornington Peninsula. Their submission suggests that residents of the Mornington Peninsula would be better serviced under an Outer Suburban zone, particularly in the provision of WAT services.

Submissions from licence holders disputed the need for change in outer suburban areas, arguing that the original justification for zone boundaries had not changed:

> *The whole idea of creating these (outer suburban zone) regions was to safeguard a level of service for these areas.*[42]

40 Anonymous submission 831, p.3

41 Dandenong Taxis submission E441, p.25

> *Current Taxi zones have been in place for many, many years, I see no reason why to support any change.*[43]

Only a small number of outer suburban user groups commented on the zone changes for metropolitan Melbourne. One disability organisation, Wallara, commented on its close relationship with Dandenong Taxis and its satisfaction with the service it receives:

> *One important thing to consider is that the drivers who work in the outer suburban zone do a lot of local work. 90% of the bookings start and finish within the zone. This means that we service a lot of repeat customers. These customers are happy to see the same faces picking them up, as this gives them a sense of security. Also, the drivers feel more security as they know who they are picking up….*[44]

However, another group working with disabled clients, Scope, saw the consolidated zoning as providing greater opportunity for the outer suburban drivers:

> *Scope is particularly supportive of the proposed changes to Zone 1. We have experienced instances in which good Frankston drivers were restricted in the support they could offer outside their zone.*[45]

Support for the recommendation also came from the RACV, which commented that it would reduce inefficiencies such as unnecessary dead running time across zone boundaries. The RACV also encouraged the immediate extension of the greater Metropolitan zone boundary to match the Melbourne Urban Growth Boundary, and stressed the need for a constant review of zone boundaries to keep in step with urban development and accessibility needs.

The VTA presented a model for zoning recommending a consolidated Urban zone taking in Dandenong and Frankston, Ballarat, Bendigo and Geelong.

3.5.2 Urban, Country and Regional zones

Country taxi networks made it clear that the inquiry's zoning proposals were not favoured, although it is difficult to assess whether the responses were primarily concerned with the removal of the public interest test for licences.

Country operators such as Morwell Taxis argued that the uniqueness of particular areas required that they be recognised as zones. Morwell Taxis and Riviera Taxis put forward the argument that under a new licence classification for an expanded 'urban' zone, many of the subsidy measures for country taxis, in particular the WAT vehicle subsidy and 80km rule, would be lost.

The VTA and Riviera Taxis disputed the basis on which the zones had been decided. VTA suggested that taxi business values outside Melbourne reflect the value of the business associated with the licence, not the licence in isolation. Riviera Taxis argued that zones should be based on the location of a town, its population and demographics, rather than on a cost basis. The submission suggested reforms would lead to operators leaving the industry and incomers providing reduced access to transport services, with increased fares.

Smaller networks, such as that operating in Creswick, expressed concerns that under the draft recommendations operators would be able to work over broader areas. They suggested this would 'flood' some areas with taxis, while other areas would suffer shortages.

The recommendations on zoning also discussed the benefits of more flexible services and the opportunities for greater competition in country markets. Country operators disputed the fact that competition could lead to better service quality. Network submissions also argued that competition would lead to customer safety issues as drivers tried to out-compete each other and sought to cover their costs by adopting unsafe practices or undercutting fares, with the possibility of disputes occurring between drivers and between drivers and passengers.

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42 Mark Longton (SE Taxis) submission 1209, p.2

43 Russell Taylor submission 291, p.2

44 Anonymous submission E153, p.2

45 Scope submission E346, p.4

Changes to taxi zones (and licensing) were not welcomed by some user groups, including Westmont Aged Care Services in Wodonga, which were concerned that the changes may have an undesired effect as operators leave the industry for viability reasons. Westmont thought that elderly citizens could be 'soft targets' for more flexible fare arrangements and that newcomers to the industry may not provide the same levels of care for their clients.

The Geelong Taxi Network suggested the consolidated zones may have undesirable effects if drivers chose to chase long fare jobs:

> *Drivers will gravitate to a particular area by way of a job, and if they think there is additional work or return work to come out of that area, irrespective of the time delay for that job, the driver will wait, thus providing a poor customer service to the zone they have left unattended.*[46]

3.5.3 Other groups

The VTA put forward an alternative proposal for zoning in Victoria that involved three zones in concentric circles around Melbourne. Under the model, there would also be an overlap of Metropolitan and Urban zones. This plan removes the Outer Suburban zone and expands the Urban zone, with the aim of better catering to demand on Melbourne's fringe.

Other submissions saw merit in more overlapping zones, such as that proposed for Avalon Airport. In particular, peri-urban areas – where demand for taxi services is high and supply low – were nominated as locations that could benefit from an overlapping arrangement.

The concept of overlapping zones was elaborated in the submission from the Eastern Transport Coalition, representing seven municipalities. They argued that a joint zone should be in place where people access services such as employment, health, education, transport, shopping and entertainment. The Yarra Ranges Shire Council submission also supported better overlapping of zones:

> *This will increase the catchment area for drivers and reduce the issue of refused travel for residents in the country zone.*[47]

The Avalon Airport suggestion for a dual zone was supported in many submissions, but was opposed by Geelong taxi operators who felt it would be unfair that Melbourne taxis could take the longer haul Melbourne jobs. Some thought this would act as disincentive for Geelong taxis to cater to the airport market. Geelong-based licence holder Murrell Group argued that a shared zone would lead to customer confusion and difficulty for drivers.

Geelong Taxi Network did not believe there were sufficiently significant taxi problems at Avalon Airport to justify a joint zone. Rather, they believed the naming of Avalon Airport-Melbourne creates confusion, which promotes use of travel by taxi from Melbourne.

The dual zone was supported by Avalon Airport for its ability to reduce dead running. However, the airport suggested that in providing this incentive for Melbourne-based taxis, there should also be a fixed fare at a reduced price to the meter. The airport suggested a fixed fare of $65 between Melbourne CBD and Avalon, with adjustments made for travel to other Melbourne suburbs. Their view was that this would enhance competition with Melbourne Airport, remove the risk of driver fraud and provide better customer information.

The recommendation to allow the Taxi Services Commission to further consider rationalising zones received more broad support than any other zonal recommendation. However, operators raised the potential loss of licence value as a point of contention, with many suggesting the industry should be involved in the process.

3.6 Inquiry's response to submissions

The inquiry is not surprised by the general response of the industry to the relaxation of zoning regulations. Zoning provides protection for licence values and also protects existing networks from new competitors. The current zoning

46 Geelong Taxi Network submission E465, p. 10
47 Yarra Ranges Shire Council submission L172, p.2

and licensing arrangements mean that many Victorian towns are 'stuck' with their taxi networks, regardless of the quality of their service performance.

The inquiry's view is that concerns that service levels will fall would only be relevant if existing zones were merged that had distinctly different profitability (which can be measured in licence values) and if the restrictions on the numbers of licences were maintained. This is why it is important for zoning changes to be introduced at the same time as new licences are made available, as this will reduce costs for new operators and improve availability more generally.

The inquiry accepts that its draft approach of relying solely on past licence prices may be insufficient to determine appropriate zones, given that many recorded licence sales will also include an element of goodwill.[48] This appears particularly relevant in regional and country areas. Therefore, the inquiry has considered further how a revised zoning approach could work, based on including other relevant measures of market similarity.

The inquiry notes there was some recognition from bodies such as the VTA and users of taxi services that zoning regulation could be significantly 'softened' to improve service in areas that have existing identified problems.

In the following sections, the inquiry sets out its final proposals to establish new zones in Victoria, together with some specific proposals for dealing with existing zone boundary issues.

3.6.1 General approach to determining zones

The inquiry's two principles to reduce costs to consumers from zoning restrictions are:

- Zones should be simplified and broadened where existing zones are:
  - no longer necessary to ensure adequate service; or
  - causing significant efficiency losses and poor service due to dead running.
- Opportunities for inter-operability within zones should be encouraged where zones are necessary to assure service, but are causing significant efficiency losses and poor service.

The inquiry maintains its view that an approach based on issuing licences at a fixed price is consistent with a broader set of zones than currently applies. By linking areas with similar levels of taxi demand and availability, there will be no (or very limited and temporary) adverse service impacts and greater potential for competition between networks located in different towns (but in the same zone).

The inquiry does not consider it appropriate or possible to use demand-driven formulas to determine licence release in country areas, either as a whole or for particular zones. Such approaches place a heavy burden on the regulator to gather data on the demand for, and supply of, taxi service in each service area, which will inevitably be imperfect.

The specific allocation of towns or service areas to zones is a difficult exercise, requiring a degree of judgement.

The inquiry accepts that the last traded price for a licence is an imperfect indicator for determining market value. A number of licence owners wrote to the inquiry suggesting their classification into a particular zone was incorrect. Licences were sometimes purchased a number of years ago and often included not just the licence, but also vehicles and network infrastructure. The VTA also suggested that the success of the business is reflected in the licence value.

Notwithstanding these issues, the inquiry remains of the view that licence value must be an important criterion in classifying different zones. Amalgamating service areas with very different licence values creates a real risk that, unless licences are subsequently issued for a very low price, service in areas with lower-priced licences will be reduced.

The inquiry has further considered its draft groupings of service areas and has allocated areas to zones using a combination of geographical proximity, population and licence price data. This should provide for a reasonable balance of treating similar areas similarly, while being equitable among different groups of licence holders.

48 Goodwill is value attributable to a business that is distinguishable from the licence value. That is, the goodwill value would be what is left over even if an unlimited number of licences were available at a zero price.

The inquiry accepts that some anomalies may remain in the proposed zoning approach. The best way to handle these anomalies is to give the TSC some discretion to re-zone certain areas. This discretion should be exercised in accordance with the two principles noted above. In particular, existing or potential new networks should be allowed to seek a re-zoning of their service area to a different zone as this could facilitate benefits including cheaper licences, greater fare flexibility or access to WAT subsidies. Further, if zone changes or other factors such as changing demographics cause a loss of service in an area (for example, an operator moves taxis from a relatively poor-performing part of a zone to a part that is more profitable), there should be flexibility to re-zone the area that has lost service into a zone with cheaper licence prices and greater fare flexibility, thereby enhancing the prospects of a continued service.

3.6.2 Proposed zone boundaries

The inquiry considers that the VTA's proposed model of an Urban 'fringe' zone, and continuation of the Country zone for the majority of Victoria, has some merit. However, in maintaining its recommendation around licence release, the inquiry's assessment is that it is necessary to maintain two zones outside metropolitan/urban areas, reflecting the different service characteristics between larger and smaller towns and geographical proximity.

The inquiry understands that the VTA's proposed Urban zone would contain the existing Outer Suburban zone (rather than, as the inquiry initially proposed, merging the Melbourne zone with the Outer Suburban zone) and that this is supported by both Frankston and Dandenong taxi networks.

The details of how VTA's 'urban fringe' zone would work in practice were not entirely clear. The inquiry considers that a shared zone on the Melbourne and urban fringe could produce a considerable lift in service standards in areas currently experiencing poor service availability. Such a zone would allow incumbent operators in both zones to move their vehicles across a broader area and, in the case of the Urban zone, encourage more competition between urban networks.

Specifically in relation to the Outer Suburban zone, the inquiry considers that, for the reasons set out in chapter 10 of its Draft Report, there are some strong reasons to incorporate Frankston and Dandenong within a Metropolitan or Greater Melbourne zone. However, the inquiry's concerns about maintaining this zone separately from Melbourne would be lessened by the development of a new Urban zone and the introduction of a shared zone between metropolitan and urban areas. This should reduce the efficiency costs of the existing zoning arrangements significantly. Further, it would assuage the concerns of Frankston and Dandenong networks that their vehicles would service the metropolitan area only.[49]

The benefits of this shared zone approach would be felt particularly in areas that currently receive a relatively poor service, such as areas that are on the edge of the existing Metropolitan zone boundary such as Werribee, Lilydale, Ringwood and Whittlesea, as well as those in zones close to the other side of the boundary. Certainly in the Mornington Peninsula, where service availability was reported as a serious problem, residents would be able to book a taxi from a broader range of networks, including the Frankston network.

After further consideration of geography, population and licence price data, the inquiry's revised approach proposes four zones, with some revisions to the specific allocation of service areas:

- A Metropolitan Melbourne zone
- An Urban zone, incorporating the existing Outer Suburban zone, Ballarat, Bendigo, Geelong and other service areas adjacent to the Metropolitan Melbourne zone
- A Regional zone, which includes larger service areas with a population of more than 10,000
- A Country zone, which includes all service areas not covered under the other zones (service areas with less than 10,000 people).

The inquiry has also considered whether operators on the Bellarine peninsula (in places such as Ocean Grove) could fit within the new Urban zone. In principle, there could be some advantages to this for taxi users if there are regular

49 The inquiry maintains that this view is not correct, and that the similarity in licence values between the metropolitan and outer suburban zone areas means that there would be little incentive for these taxis to leave their current service areas.

trips between the greater Geelong area and these other zones. However, the inquiry is concerned that amalgamating these zones could cause some service issues due to the significant difference in licence prices and hence profitability of operating solely in Geelong. The inquiry supports a review of this arrangement by the TSC within the first few years following the implementation of the new zoning arrangements. Similar issues apply to smaller services within the proposed Urban zone and the TSC will need to monitor developments in these service areas.

The revised listing of service areas is set out in Figure 2.

Figure 2 Revised zone areas

Metropolitan: Melbourne

Urban: Ballarat, Bendigo, Broadford, Emerald, Garfield, Geelong, Gisborne, Kilmore, Koo Wee Rup-Tooradin-Lang Lang, Macedon, Melton-Bacchus Marsh. Outer Suburban: Pakenham, Port Phillip, Riddells Creek, Romsey, Sunbury, Wallan, Wandong, Wesburn, Warburton, Westernport, Whittlesea, Yarra Valley

Regional: Bairnsdale, Castlemaine, Colac, Drouin, Drysdale-Portarlington, Echuca, Hamilton, Horsham, Latrobe Valley, Leongatha-Korumburra, Merbein, Moe, Newborough, Ocean Grove, Point Lonsdale, Portland, Sale-Maffra, Shepparton, Sunraysia, Swan Hill, Torquay, Wangaratta, Warragul, Warrnambool, Wodonga

Country: Alexandra, Anglesea, Apollo Bay, Ararat, Ballan, Bannockburn, Beechworth, Benalla, Bright, Camperdown, Casterton, Cobden, Cobram, Cohuna, Corryong, Cowes, Creswick, Daylesford, Dimboola, Dunolly, Euroa, Foster, Grantville, Halls Gap, Heathcote, Inverloch, Kerang, Koondrock, Kyabram, Kyneton, Lakes Entrance, Loch Sport, Lorne, Mansfield, Maryborough, Metung, Mount Beauty, Myrtleford, Negambie, Neerim South, Numurkah, Orbost, Ouyen, Paynesville, Port Fairy, Red Cliffs, Robinvale, Rochester, Rushworth, Seymour, St Arnaud, Stawell, Tatura, Timboon, Trafalgar, Wahgunyah, Warracknabeal, Wedderburn, Welshpool, Winchelsea, Wonthaggi, Woodend, Yackandandah, Yarram, Yarrawonga

Proposed Metropolitan Melbourne / Urban boundary and shared zone

Irrespective of how zones are established, there are always boundary issues. The inquiry has given further consideration to how an urban boundary might be drawn, the overlap between the Metropolitan Melbourne and Urban zones and the operational rules that may apply for vehicles operating within the shared zone:

- The Metropolitan Melbourne / Urban boundary should largely be consistent with the Melbourne Urban Growth Boundary (this is largely consistent with current practice but should be made explicit).
- The width of the boundary should be around five kilometres either side of the existing zone boundary for the Metropolitan zone. This boundary should be determined by the TSC with specific references to roads or other natural boundaries and whether there are particular activity centres that might fall just outside of these boundaries.
- The operating rules for taxis in the shared zone should be that taxis from either the Metropolitan or Urban zone can work entirely within the shared zone. Taxis can take a fare from the Urban or Metropolitan zone into the shared zone and a fare from the shared zone to either of the other two zones. However, Urban-zoned vehicles that finish a journey in the Metropolitan zone have to return to the shared zone before accepting another fare.

The proposed shared zone is shown in Figure 3 at the end of this chapter.

3.6.3 Avalon airport

Avalon Airport agreed with the inquiry that the current zoning arrangements were costly for both Melbourne and Geelong taxis, and that a shared zone offers a number of benefits. As noted previously, the airport also requested that the inquiry recommend a fixed fare between the airport and Melbourne.

The inquiry sees some merit in the concept of fixed fares between Melbourne's airports and major destinations. This is because of the relatively high proportion of visitors to Melbourne using taxi services and because of the current

distortions associated with fares for long journeys.[50] Nonetheless, the inquiry does not recommend their introduction at this time because of the complexity of introducing fixed fare arrangements and because the inquiry wishes to see changes to the balance of fixed and variable fare components more generally (which will reduce the costs of longer journeys). However, the inquiry considers this matter should be kept under review by the TSC and the ESC in the event that more general changes to the fare structure do not produce the desired outcomes.

The inquiry also notes that Avalon Airport could facilitate the greater use of hire cars (PBOs) from the airport through either direct contractual arrangements with existing operators (such as offering preferential access to those operators willing to charge a fixed fee acceptable to Avalon Airport) or introducing a kiosk at the airport to facilitate pre-bookings.

The inquiry does not necessarily see the fixed fare measure and the changes to zoning as being linked. Nor is it obvious that the operational costs of supervising a multi-rank system at the airport would be costly or confusing for customers or drivers, provided adequate signage and separate ranks were in place. The inquiry is also not convinced by arguments raised by the Geelong Taxi Network that the problem is merely one of 'naming'. Avalon Airport's estimate that more than half of all outbound passengers are from Melbourne indicates that the zoning is an illogical and costly anomaly for Melbourne and Geelong taxi operators and, ultimately, customers, who must bear the higher operator costs through higher fares.

3.7 Final recommendations

1.1 A new approach to taxi licensing should be adopted statewide whereby new licences are available at any time to approved applicants at a set price. The restrictive public interest test currently applying to the issue process for country taxi licences should be removed. All new licences in Victoria should be granted 'as of right' to approved applicants who wish to purchase them.

1.2 The new taxi licences should have a uniform set of conditions set in regulation, including that they are:

- Annual but automatically renewable unless challenged by the regulator
- Transferable
- Non-assignable (the rights to operate the vehicle cannot be given to another party)
- Payable upfront annually via a price fixed in perpetuity (not indexed)
- Able to be handed back (upfront payments will not be refundable)
- Not subject to the current 'continuous operation' licence condition so that they can determine their own hours of operation.

1.3 In transitioning to these new licences, holders of the 10-year Metropolitan Wheelchair Accessible Taxi (WAT) licences issued throughout 2010 and 2011, and the restricted peak service 'green top' licences issued between 2003 and 2009 that operate in metropolitan Melbourne, should be offered the option to convert to the new annual licence (including the new terms, conditions, payment prices and method of issue). Additionally, the holders of the 200 Greater Melbourne Taxi Licence Release (GMTLR) fixed term conventional licences should be converted to the new annual licence (including the new terms, conditions, payment prices and method of issue), with the effect of no further licence fee payment being charged for a total of 15 years (of holding the licence).

1.4 The Taxi Services Commission should monitor the number of licensed and operating WATs to ensure that demand and government incentives are sufficient to ensure an adequate supply of WATs for people with a disability.

1.5 The restriction on limiting the assignment period for assignable licences to no more than three years should be removed.

1.6 New and existing taxi licences should be authorised to operate in a four tier system of zones, with corresponding prices for new licences established for each zone (as outlined below):

50 This issue was discussed in section 20.5 of the Draft Report.

Zone 1: Metropolitan - Metropolitan Melbourne (largely consistent with the Melbourne Urban Growth Boundary)

Licence price: Conventional: $20,000 per year, WAT vehicles: $16,400 per year

Zone 2: Urban and large regional - This zone should include the current Outer Suburban zone (Frankston and Dandenong), the Mornington Peninsula, other zones adjacent to the Metropolitan zone and the regional cities of Ballarat, Bendigo and Geelong,

Licence price: Conventional: $16,000 per year, WAT vehicles: $12,400 per year

Zone 3: Regional - This zone should comprise service areas of population sizes around 10,000 – 20,000 such as the Latrobe Valley, Shepparton, Swan Hill, Echuca, Horsham, Colac, Ocean Grove and Warragul

Licence prices: Conventional and WAT vehicles: $10,000 per year

Zone 4: Country - This zone should comprise all other parts of the State not covered by Zones 1, 2 and 3

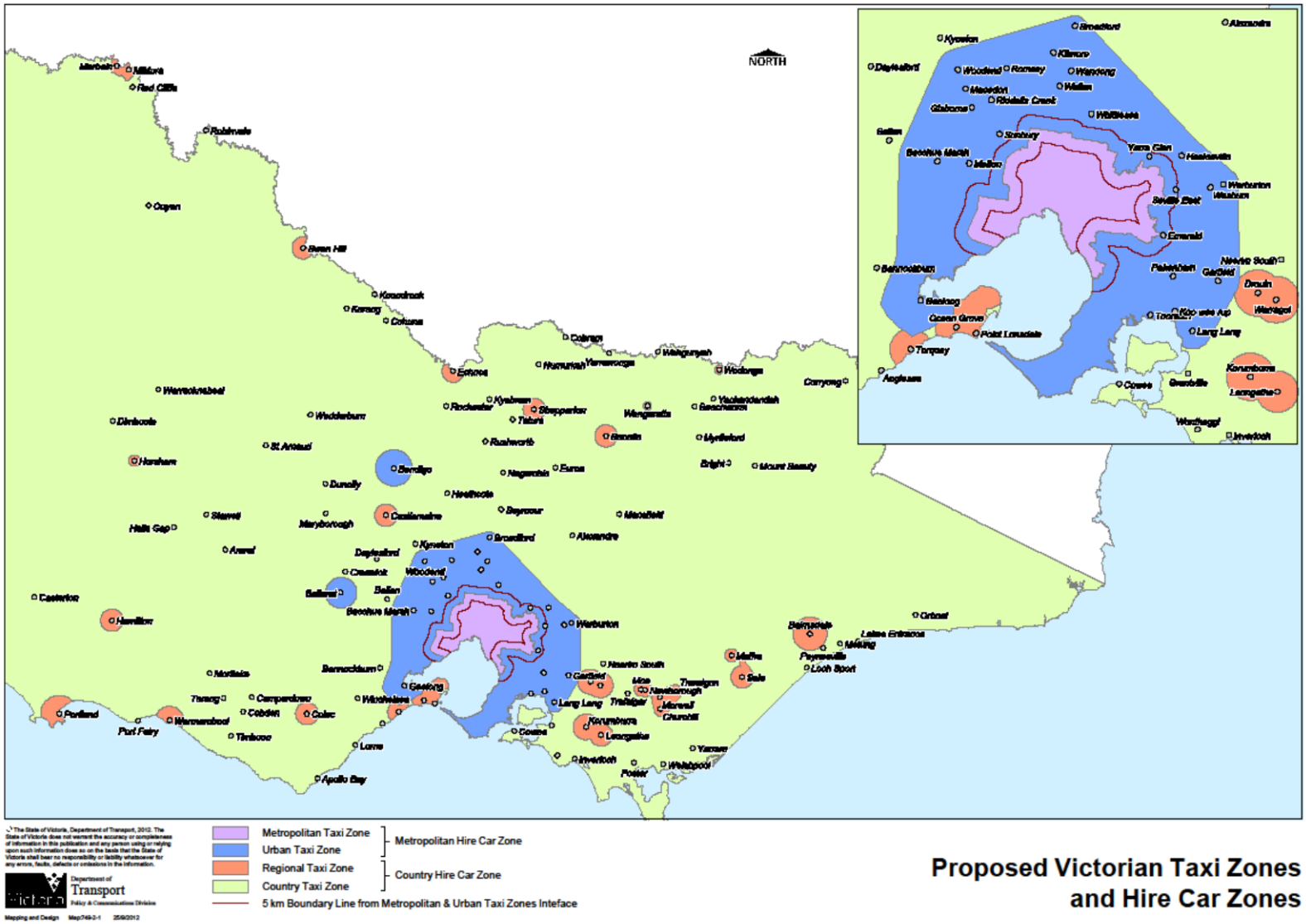
Licence prices: Conventional and WAT vehicles: $3,000 per year

The Taxi Services Commission should designate an overlapping boundary zone of no less than five kilometres on either side of the actual boundary between the Metropolitan and Urban zones, allowing for taxis that are licensed to operate in the Metropolitan and Urban zones to operate normally anywhere within this overlapping area.

1.7 A shared Metropolitan and Urban zone should be defined at Avalon Airport to allow Metropolitan zoned taxis (and, potentially, other Urban zoned taxis) to service the airport for customers who are bound for Melbourne. Separate Melbourne (or other destination) and Geelong ranks will need to be established at the airport to support this shared zone.

1.8 The Taxi Services Commission should have the power to review zones, through a public process, in response to emerging issues and changed market conditions and, if necessary, to extend zones or create overlapping zones. This may be particularly relevant for areas adjacent to Melbourne that are growing rapidly, as well as other areas of significant growth across Victoria such as the Bellarine Peninsula bordering Geelong. The Commission's longer term objective should be to further rationalise and relax zone regulation in light of changes in market structure and market forces that will ensure adequate service coverage.

Figure 3 Proposed Victorian Taxi and hire car zones



4 Hire cars

4.1 Inquiry's views in Draft Report

The inquiry found that hire cars in Victoria provide a high level of service at the luxury and premium end of the commercial passenger vehicle market. Generally, hire car customers have higher levels of satisfaction and experience fewer problems with these services than taxi customers, particularly in the metropolitan area. However, the ability for hire car services to grow, compete with taxis and be more accessible to Victorians is hampered by a number of regulatory restrictions. The costs of these regulations are borne by both the consumers and providers of hire car services.

The current licensing regime for hire cars in Victoria provides for categories of licences with fees ranging from zero to around $60,500 (GST inclusive[1]) depending upon vehicle type, the location of the operator and the vehicle's function. A number of different operating conditions are in place across a broad range of licences. The inquiry's economic analysis of this regime found that the price-based restriction on entry to the metropolitan hire car market delivered significant benefits compared to the quantity-based policy in place for taxis – the major benefit being that it does not require the licensing authority to determine whether there is a 'need' for more vehicles. Operators are free to make commercial judgements about whether there is sufficient demand to support another vehicle and will do so where the expected commercial benefits are sufficient to offset the licence fee.

However, the inquiry also found that some detriment from restricted entry remains. Primarily, this comes from higher than necessary fixed costs creating constraints in dealing with demand at peak times. The inquiry heard anecdotal evidence that this has led some operators to illegally substitute private or other licensed vehicles (such as SV category licensed vehicles) when demand for their services is particularly high.

Further, the licence fee limits the development of new business models. In contrast, the inquiry noted the vastly greater role of hire car services in cities such as London and New York where hire car licences are issued at lower prices.

In assessing the impact of hire car regulations, the inquiry found that licence categories and conditions, operator requirements and vehicle restrictions are overly complex, outdated and burdensome, act as barriers to entry and are difficult to enforce.

The inquiry noted that value and age restrictions on hire car vehicles effectively limit the hire car sector to 'high end', long wheel-based vehicles that are not necessarily appropriate to servicing a wider customer base and do not reflect valid public interest objectives, such as those relating to safety. The inquiry found that easing these restrictions – while still protecting customer safety – could encourage competition and innovation within the entire commercial passenger vehicle industry.

The inquiry identified a strong theoretical and practical basis for promoting more effective competition in the pre-booked commercial vehicle market. This market has very different characteristics from the rank and hail markets, with consumers having greater ability to choose between competing companies and hire car companies having a much greater reliance on repeat business. Competition can keep service standards higher in this market than in situations where the probability of repeat business is low (for example, the likelihood of catching the same taxi).

The inquiry noted that there is considerable potential for greater competition between taxis and hire cars. Indeed, the inquiry observed that the primary goal of many hire car regulations appears to be to constrain hire cars from competing with taxis – in particular, by requiring hire cars to provide a superior or luxury service charging 'appreciably' higher fares than taxis. The inquiry's investigation of overseas jurisdictions found that in markets where there are fewer restrictions on licences and vehicles, hire car services have flourished.

1 Under *A New Tax System (Goods and Services Tax) (Exempt Taxes, Fees and Charges) Determination 2011 (No.1)* hire car licence fees are exempt from GST. While new operators have paid the GST inclusive amount to the VTD, they have been able to claim back GST paid from the Australian Taxation Office as an input tax credit.

Accordingly, the Draft Report included recommendations designed to reduce restrictions placed on the hire car industry, open up competition in the pre-booked point-to-point market and tackle touting more rigorously. The inquiry indicated that, over time, it expected these changes to increase service availability and lead to the emergence of more diverse pre-booked services, ranging from the premium, 'high end' market to more affordable and/or specialised services. These developments should give consumers a much greater choice in point-to-point travel options.

Draft recommendations

The inquiry's draft recommendations provided the basis for a simpler and more competitive licensing and regulatory regime for hire cars through the consolidation of licence types into Pre-Booked Only (PBO) and Restricted Hire (RH) licences.

The inquiry found no convincing rationale for restricting hire car licence numbers, but noted that moving immediately to an open market would result in significant loss of licence value. As noted earlier in relation to taxis, the inquiry's draft reform package was based on no compensation being available. Accordingly, the inquiry set the new PBO licence price at a level that would relax, but not remove, the limitation on licence numbers.

The inquiry made 14 draft recommendations covering hire cars:

- The policy of hire car licences being available for purchase at any time to approved applicants in the metropolitan hire car area should be extended to the country hire car area.
- The restrictive public interest test currently applying to the issue of country hire car licences should be removed. All new hire car licences – to be known as Pre-Booked Only cabs – should be granted 'as of right' to approved applicants who wish to purchase them at set prices.
- Separate metropolitan and country hire car zones should be abolished and new and existing licences should be authorised to operate a pre-booked service anywhere in the state.
- A consolidated, uniform Pre-Booked Only cab licence should be adopted statewide and applied to all existing and newly issued licences. The licence should have a uniform set of conditions set in regulation, including that they are:
  - Of no fixed term
  - Transferable
  - Non-assignable (the rights to operate the vehicle cannot be given to another party)
  - Restricted to pre-booked operation only.
- Pre-Booked Only cab licences should be available for purchase by approved applicants at a one-off set price of $40,000. The Essential Services Commission, with input from the Taxi Services Commission, should undertake a review of this price point after three years.
- The current requirement for hire car licence holders to purchase a vehicle meeting the value of the luxury vehicle tax threshold should be removed.
- All Pre-Booked Only cab drivers should continue to be required to be accredited and a new requirement added that they display their accredited driver ID prominently inside the vehicle.
- Pre-Booked Only cabs should be easily identifiable to the public and regulators by a specific number plate prefix and a highly visible, prominent permanent sticker on the windscreen.
- Restricted Hire vehicles should remain a separate category and continue to be issued 'as of right' to approved applicants for a set fee.
- All existing Special Purpose vehicles should be reclassified as Restricted Hire vehicles and therefore subject to the same licence terms and conditions. Restricted Hire vehicle standards should remain unchanged.
- The new Restricted Hire licence should be subject to a one-off fee of $2,000. Restricted Hire licence holders should be registered with the Taxi Services Commission upon having satisfied basic entry requirements of proof of identity and a police check.

Acknowledging significant concerns about touting by hire car operators, the inquiry also recommended:

- A more orderly approach should be adopted at Melbourne Airport to provide a smoother process of pick up and drop off of customers and to deal with the problem of touting, including:
  - Making available rental space to a third party to provide a Pre-Booked Only cab booking kiosk
  - Adequate parking facilities for Pre-Booked Only cabs
  - A designated pick up area for drivers to meet customers.
- The Taxi Service Commission should be given adequate powers to deal with unlicensed operators and vehicles touting for work.
- Penalties for touting should be reviewed to ensure they provide sufficient deterrence to prevent illegal touting (touting by unlicensed, illegal operators) as well as touting by licensed Pre-Booked Only cabs who are operating outside of the conditions of their licence.

4.2 Issues raised in submissions

4.2.1 Hire car industry

Despite hosting a hire car forum following the release of the Draft Report and undertaking a mail-out to industry participants, the inquiry has received relatively few submissions from the hire car industry. The main concerns from those who did respond related to the impact of the new licence price on the value of incumbent operators' licences and business viability. As with taxi licence holders, many hire car licence holders considered that the recommended fee of $40,000 was unfair to existing licence holders and that, if the recommendation was accepted, they should receive compensation from the Victorian Government.

Owners of hire car licences argued that the proposed licence value will make little difference to the variable and fixed operating costs of a hire business, and will represent only a minor saving in terms of interest repayments over a year. Southern Cross Chauffeurs suggested it will only equate to a two per cent decrease in the first year's operating costs if the full value is borrowed. These figures demonstrate how licence value is very much a 'sunk cost' with little impact over the life of a hire car business.

Almost all hire car operators agreed with the abolition of the Country-Metropolitan zone boundary. One city based operator observed that this will remove the "imaginary halo around metropolitan Melbourne that is an unenforceable regulation".[2] However, some submissions raised concerns that the proposed set price of $40,000 is too high to encourage any growth in hire car numbers in country areas. These submissions suggested that growth may actually decline and there may be an incentive for operators to purchase more restricted hire car licences vehicles and run them like PBOs.

The removal of the luxury vehicle tax threshold was not widely supported within the hire car industry. Generally, operators considered that this will 'cheapen' the industry and lower current high standards of service. Many supported the continued differentiation of taxis and hire cars, opposing the inquiry's proposals to make these two types of service more competitive. These submissions called for any new PBO licence to be clearly distinct from the current VHA/B/C classifications.

Hire car operators remain concerned that unlicensed operators and SV licensees working outside their licence conditions will continue to operate in the market under the inquiry's recommendations. For example, the Wedding Car Association of Victoria (WCAV) made detailed suggestions to improve the new RH licence to discourage fraud and touting. Overall, the Association supported the proposed changes, observing that while there will be some 'short term

2 Southern Cross Chauffeur Drive submission L161, p.6

financial pain' incurred by this sector of the hire car industry, "the reduction of restrictions and the simplifying of processes will benefit all concerned" in the longer term.[3]

Some licence holders considered that the proposed review of PBO licences after three years – and the prospect of a further devaluation in licences – would discourage new entrants. At the inquiry hearings, Mr George Kapnias from Southern Cross Chauffeur Drive commented on the likely impact of further reviews on investment in his company:

> *All of the infrastructure that is involved and the technology that is involved in getting that scale of business up and by constantly having reviews, which we feel undermine the stability of the industry – it actually discourages operators such as ourselves to continue making those investments.*[4]

However, the Essential Services Commission supported the review of PBO licences after three years, observing that it will be of value in tracking the progress of industry reform. The ESC noted the importance of collecting reliable industry data on the PBO and taxi markets for the purposes of the review, including the number of licences issued, demand for services, trip distances and customer satisfaction surveys.

While supporting the proposed changes at Melbourne Airport, hire car operators maintained that issues around touting are the result of poor enforcement by the regulator and that much stronger powers and a regular presence at the airport are required to tackle touting.

4.2.2 Taxi industry

Many submissions from taxi industry participants disagreed that there is a need for another service offering such as a PBO model or that greater competition in the pre-booked market is desirable or beneficial.

Many within the taxi industry suggested that there was a direct correlation between the inquiry's proposed PBO model and the London minicab model. These submissions used the minicab model to highlight concerns around safety.[5] The VTA.[6] and Black Cabs Combined[7] (13CABS) considered that touting at airports and other venues could extend 'to the streets' if a PBO model is introduced, posing safety issues for passengers if illegal operators cannot be controlled.

TISV noted that the recommendations mean that a "low priced hire car … is being allowed to enter the market … and openly compete with taxis for pre-booked work."[8] TISV stated:

> *This proposal is viewed as clearly encroaching on the taxi market and is strenuously resisted by TISV on behalf of the taxi industry. In particular, this recommendation represents a blurring of the traditional markets of taxis versus luxury hire cars, and also fails to recognise the significant differences paid in terms of market entry prices by taxis and luxury hire cars.*[9]

A number of taxi licence holders and operators objected to the possibility of more hire cars operating in country towns, suggesting there is already insufficient work for incumbent operators and that a surge in PBO licences will lead to a significant reduction in gross earnings for operators.

Submissions from the taxi industry viewed the enforcement of licence conditions under an expanded market as being a major challenge for the successful operation of a PBO model. Many of these views reflected the industry's ongoing concerns about the current state of compliance, with touting continuing to be a major issue at particular city venues and Melbourne Airport.

Some submissions from the taxi industry also suggested that a new PBO licence will be confusing for customers.

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3 WCAV submission L050, p.5

4 TII hearings, submission by Mr George Kapnias and Mr John Kapnias, Southern Cross Chauffeur Drive, 14 August 2012

5 Minicabs were unregulated in England and Wales until 1976 and were completely unregulated in London until as late as 1998.

6 VTA submission 179, p. 13

7 Black Cab Combined submission E471, p. 2

8 TISV submission E347, p. 26

9 Ibid, p.26

In support of the current hire car licence price structure, the VTA argued that the $40,000 price for a statewide hire car licence will be an even greater impediment to entry to the market in country Victoria. Riviera Taxis posed the question:

> *Why would anyone in a country location purchase a PBO licence at a cost of $40,000 for a licence, when for $2,000 in the draft recommendation, a country taxi licence can be purchased?*[10]

The VTA did not oppose the relaxation of vehicle standards on hire cars but suggested they should be higher than simply requiring Victorian registration.

Generally, the taxi industry welcomed the inquiry's draft recommendations for improving hire car operations at Melbourne Airport, giving greater enforcement powers to the regulator and reviewing penalties for touting. However, the taxi industry did not support the introduction of a PBO booking kiosk at Melbourne Airport, with submissions arguing that it will not solve any of the issues associated with touting, but will instead 'legitimise' the behaviour of touts. TISV argued that the kiosk "effectively legitimise[s] touting practices by luxury hire car operators"[11] and is inconsistent with the definition of 'pre-booking' in place at all other major Australian airports. TISV also considered that the kiosk has the potential to increase the number of hire cars going to Melbourne Airport and may actually result in increased touting (as those engaged in touting are unlikely to want to use the kiosk).

TISV suggested that touting at the airport can be addressed through full time, on-site policing by the regulator, funded by the industry.

4.2.3 Other submissions

Outside the hire car and taxi sectors, there was support for the proposed PBO model.

Yarra Ranges Shire Council expressed strong support for the model, particularly for its potential to increase transport options for residents with a disability or elderly people who are unable to access public transport in Melbourne's outer suburbs:

> *While increasing the opportunity for more PBO taxis would result in more competition for providers, it should also provide an improved service for passengers, as drivers 'compete' for ongoing provision of services.*[12]

The Council also supported the removal of zoning and vehicle restrictions on hire cars, seeing it as offering greater transport flexibility to the poorly serviced Yarra Valley tourist area.

The Eastern Transport Coalition also saw benefits in the PBO model in outer suburban areas where bus services cannot cater for individual transport needs.

The Victorian Tourism Industry Council and the Victorian Events Industry Council also supported the introduction of a PBO model. Noting the current taxi shortages experienced at peak event times, these groups supported more flexible vehicle models provided the same standards as taxis are maintained. However, they suggested that monitoring will be needed to enforce compliance with PBO licence conditions and to ensure there is no encroachment on taxi businesses.

Melbourne Airport noted the competitive benefits of a new PBO licence and acknowledged that a PBO kiosk operated by a third party may be a better way to manage the operation of hire cars at the airport, as well as offering real-time convenience for arriving customers. However, a number of logistical, pricing and operations issues will need to be addressed to meet customer expectations for a convenient, timely PBO service – including additional investment in appropriate infrastructure.

Melbourne Airport recognised the risk that touting may become a bigger issue under a PBO scheme and suggested that the inquiry make compliance with airport processes an explicit requirement of the PBO licensing regime. A stronger presence and more effective enforcement activities at the airport by the regulator will be needed.

10 Riviera Taxis submission L064, p. 6

11 TISV submission E347, p. 22

12 Yarra Ranges Shire Council submission L172, p.2

Melbourne Airport also pointed out that sufficient opportunity must be provided for taxis to work at the airport, given that the taxi industry provides services 'around the clock' while hire cars are mainly available in peak business travel periods.

CabFare endorsed the concept of a kiosk at Melbourne Airport, but noted that a single operator may limit the advantages of such a kiosk as this will not allow competitive forces to play out. CabFare also raised the importance of online bookings in the future and suggested this be explicitly addressed in recommendations around touting. CabFare argued that online bookings should be recognised as a legitimate form of pre-booking a PBO to allow emerging services and technologies to thrive.

4.3 Inquiry's response to submissions

While clearly opening up more opportunities for the industry, the inquiry's draft recommendations will also enhance competition – and it is this aspect of the proposed reforms that seems to most concern the industry. While a small number of hire car licence holders noted the potential of the reforms to boost their fleet sizes and increase both their share of the commercial passenger vehicle market and the overall size of the market, submissions were more inclined to highlight concerns about business losses and criticise the competition principles upon which the inquiry's recommendations were based. Very little was said by the industry about the changes in vehicle standards and how these could enhance niche opportunities.

The inquiry remains firmly of the view that encouraging greater competition within the hire car and taxi sectors and between the sectors is the best way forward, from both a consumer and industry perspective. However, the inquiry has reframed some of its recommendations to respond to concerns raised in response to its draft recommendations and at the forum for hire car operators. These changes are discussed below.

4.3.1 Hire car zones

The inquiry notes the view advanced by some submissions that the removal of the Metropolitan and Country hire car zones, combined with the new set price of $40,000, may pose a significant barrier for new entry in country and regional markets, at least in the short term. Operators also told the inquiry that there is insufficient work in country towns to justify purchasing a $40,000 licence. The inquiry accepts that the draft recommendation would provide incumbent owners of Country hire car licences with a windfall gain in the value of their licences and that the cost of obtaining a new licence would double. The inquiry recognises that a high new licence cost in regional areas also increases the risks of illegal operation by the new RH classification. Such risk would be partially mitigated by other inquiry proposals for better enforcement in regional areas and clearly identifiable vehicles. However, the inquiry is concerned that – based on the evidence provided by country hire car and taxi operators – a $40,000 licence could stifle future investment of hire cars in country areas and that this would severely restrict community access to a broader range of point-to-point transport options. Furthermore, the reforms to country taxi services may take time, delaying the entry of new taxis to certain markets. The inquiry has reconsidered its draft recommendation on de-zoning hire cars, taking into account both the taxi and hire car services available to the public.

The inquiry considers that amending the zone boundary to align with taxi licence zones provides the best balance of competition and industry growth. Under the inquiry's final recommendations, the public interest test will still be removed; however, the Metropolitan hire car zone will be re-aligned to be consistent with the Metropolitan and expanded Urban taxi zones, with a licence price of $40,000. Areas outside of these zones (the Regional and Country taxi zones) will form the Country hire car zone with new licence values set at a price of $20,000. Metropolitan hire car (or PBO) licences will be able to operate statewide, while country PBOs will be able to work in all Country zone areas.

The inquiry recommends that current operators with full operating rights in the new Metropolitan hire car zone (including Open SV licences permitted to operate in Metropolitan and Country hire car zones and metropolitan hybrid licences) should be converted to the new Metropolitan PBO licence free of charge. VHC licences with an operating address in the new Country hire car zone should be issued a Country PBO licence free of charge.

The expanded Metropolitan hire car zone will address many of the concerns of fleet operators in large urban areas that they cannot work in Melbourne. The inquiry understands that some operators in country towns may also seek these same conditions to operate in Melbourne. However, the inquiry considers that too many detrimental effects for

customers will result from a high Country hire car licence value, including a reduction in country based PBO vehicles. A simple zoning arrangement that corresponds to the borders of taxi zones will strengthen competition and ensure the enforcement task can be more easily defined and met.

The two-zone licensing regime aims to expand the range of services available to country populations while the taxi reforms are phased in to these areas. The $20,000 price of a hire car in country Victoria may prompt taxi networks to purchase a PBO licence to supplement their fleets (noting that the pre-booked market in country areas comprises 90 per cent of jobs). If this occurs, customers stand to receive a better service than they currently receive, particularly in more remote parts of the State. For networks, the purchase of a hire car, with its reduced regulatory requirements, could also be more attractive than an additional taxi licence.

The inquiry considers that its licensing reforms will allow potential market entrants to make informed decisions about whether there is demand for their services. Other entry costs, such as purchasing a vehicle and communications equipment and making annual lease payments, will still need to be taken into consideration. The inquiry can see no compelling reason for denying potential entrants the right to assess these costs and risks for themselves.

Many submissions made the point that the current metropolitan-country hire car zone definition is arbitrary and exceptionally difficult to enforce. The alignment of hire car zones with the taxi zone, together with clear identification of vehicles and reviews of penalties, will make the enforcement task easier under the new PBO model. Furthermore, the inquiry is making a new recommendation for the Taxi Services Commission to implement a community campaign to educate passengers on how to book a PBO cab, identify approved PBO cabs and report illegal operators. Distinguishing between a Country and Metropolitan PBO cab should be built into this education campaign.

4.3.2 The new PBO model

In responding to submissions on its draft recommendations, the inquiry considered different licence pricing models and gave further consideration to the effect of its proposals on country markets. One such model was the introduction of an annual payment option that would provide a more flexible payment option for those wanting to enter the market. This approach would also align more closely with the proposed new taxi licensing scheme. Hire car operators expressed the view that this would only be feasible if accompanied by a buyout of existing licences. The financial and administrative costs involved in doing so make this unfeasible in the current economic climate. Accordingly, the inquiry considers that the one-off payment for a perpetual licence should remain.

As noted in the Draft Report, it is clear that the reduction in the MH hire car licence price from over $70,000 to $60,000 in 2004 resulted in new entry and a more competitive industry. However, this growth has not had the additional networking effect seen in other pre-booked only cab markets. The lack of networking, together with high vehicle costs, has made it hard for the hire car industry to compete with taxis, as hire cars do not have the number or distribution of vehicles to meet demand in the ready-to-ride market. The inquiry's view is that the combined effect of its recommendations – the further reduction in licence price, issuing licences 'as of right' and removing the luxury vehicle requirement – will provide further steps towards a competitive pre-booked market.

As discussed in the previous section, the inquiry considers that an adjustment of the hire car zones, as opposed to a whole-of Victoria licence, provides a more equitable solution for country users and hire car businesses wanting to expand their fleets. Under this model, the large urban centres of Geelong, Ballarat and Bendigo will be brought into the $40,000 (GST exclusive) licence class of a Metropolitan PBO, allowing greater inter-city networks to develop. Country hire car zone operators will pay the existing licence fee of $20,000 (GST exclusive) to expand their fleets, with the removal of the public interest test and luxury vehicle tax threshold allowing greater opportunity for networks to develop.

The inquiry recommended in the Draft Report that the set price for a PBO licence be reviewed in three years. Industry participants have told the inquiry that this would act as a disincentive to investment and the inquiry agrees this may be the case. In its final recommendation, the inquiry has removed the requirement for the ESC to undertake a review of PBO licence prices. This will enable new entrants to forecast their ongoing costs with some degree of certainty. The inquiry considers that a set price and reduced vehicle entry costs should provide the stimulus needed for greater investment in fleet PBO services that can offer a level of competition with taxis, particularly in the ready-to-ride pre-booked market.

The inquiry has also clarified that the $40,000 metropolitan and $20,000 country prices are GST exclusive amounts, in line with the current $55,000 (GST exclusive) amount. The TSC will work with the Australian Tax Office to ensure the GST component currently paid by prospective licence owners will not be paid in the future.

The inquiry disagrees with assertions that the PBO model will result in the same problems experienced in the London minicab market. The minicab model in London developed in a largely ad hoc manner from an environment of low levels of regulation. A licensing scheme for London minicabs was only introduced in 2001, despite there already being thousands of operators in the market. In effect, regulatory protections were retro-fitted to an existing market. The situation in Victoria is markedly different as a regulatory regime with appropriate standards is already in place.

The inquiry's recommendations provide for the new look hire car fleet to be highly visible and clearly identifiable, and for information about all PBO permit holders to be made available on a real-time Public Register on the TSC's website. The inquiry is also recommending that the provision of information about the introduction of PBOs be a strong focus for the TSC in the early years of implementing reform.

The market will also play a major role in the accountability and competitiveness of the PBO model through the provision of technological solutions. The inquiry has met with several providers of smartphone based booking services that will allow PBO networks to compete directly with taxis in the pre-booked market. Rather than wait in a taxi rank or try and hail a cab late at night, passengers are currently able to order a PBO on their smartphones and obtain an immediate 'quote' for the service. With the expansion of such booking services, the inquiry anticipates that PBOs will form larger networks that allow them to dispatch vehicles in times comparable with taxis.

Finally, the inquiry notes that, while a number of submissions (largely from the taxi industry) chose to highlight problems with the London minicab market, little comment was made about its successes. In London, minicabs have carved out market niches in the provision of late night travel and specialty services, offering customers a wider range of travel options. Addison Lee is one of the success stories of London's minicab experience, operating a sophisticated automated booking, dispatch and traffic management system that has allowed the company to compete successfully with the city's famous black cabs. Similarly, the New York Livery provides an important pre-booked service to the city's outer boroughs where taxis prefer not to operate.[13] The inquiry's recommendations open up the prospect for the hire car and taxi industry to take positive elements from the experiences of these cities and use the new PBO model to foster innovation, improve services in low demand areas and uncover latent demand.

As part of the removal of the luxury vehicle tax threshold, the inquiry has considered the age limits that should apply to PBO vehicles. In the Draft Report, the inquiry recommended that no change should be made to vehicle age limits for taxis and PBOs and that the TSC should conduct further research into the influence of vehicle age on safety to determine whether changes should be made. The current age limits relate to the 'luxury' vehicles that operate in the hire car market. So far as possible, it is desirable that there be regulatory neutrality between taxis and PBOs: this suggests that vehicle age restrictions between the two market segments should be aligned. However, the inquiry recognises that taxis generally do far more kilometres per year than hire cars because of their hours of operation and rank and hail work. As an interim measure, pending further assessment by the TSC, the inquiry recommends that vehicles meeting the luxury vehicle tax threshold have their current age limits retained. However, all new PBOs not meeting the luxury vehicle tax threshold should be subject to the same age limits imposed on taxis:

- Maximum vehicle age: 6.5 years
- Maximum vehicle age for entry into the Victorian PBO fleet: 2.5 years.

4.4 The new RH category

While welcoming the draft recommendations aimed at dealing with the problem of touting, industry representatives did not think the inquiry had gone far enough in ensuring that concerns of widespread fraud under the SV classification would be addressed under the new PBO model. Specifically, SV sedan operators have been accused of undermining the licensing regime through deception and misrepresentation to customers, using the specialised licence to poach work from full licensees and jeopardising the safety of customers. Many operators have been quite open with the inquiry that a percentage of their work is conducted outside the terms of their licences. In some cases, such as the

13 See chapter 14 of the Draft Report for a more detailed account of the operations of Addison Lee and the New York Livery

RH 25 years+ licence, vehicles are able to compete with MH vehicles at a fraction of the cost. Clearly, the regulatory regime here is not working.

The hire car industry has attributed these problems to the poor identification of SV vehicles, an ineffective penalty regime and low prioritisation by VTD enforcement personnel. However, underlining these issues is the licensing classification that creates a number of loopholes. In its final recommendations, the inquiry is proposing a new registration scheme that will clearly distinguish PBOs from purpose-specific Registered Hire vehicles, as well as a public education campaign, more effective enforcement and a review of penalties.

The inquiry considered a registration process for all SV and RH licences to assist in addressing these problems and in 'separating out' PBO licensed vehicles from other commercial passenger hire cars. Under this scheme, severe penalties would apply where a vehicle is registered to operate as a wedding or tour vehicle but is found operating as a commercially licensed vehicle (for example, operating on the CBD to Airport route).

The inquiry also considered complete deregulation of the non-PBO hire car market. Such an approach would make it very clear to passengers that there is only one type of registered hire car licence – the PBO. For industry, those that wanted to work outside the wedding and tour industries would need to purchase a PBO licence. It would also make the enforcement task easier. Deregulation could be accompanied by industry-led initiatives such as a voluntary code of conduct or accreditation program.

The inquiry acknowledges that under deregulation of these markets, definitions for unregulated activities (weddings and tours) would still need to be clearly understood by all parties. These definitions would then help to frame an area that is not subject to enforcement activity, as any vehicle would be allowed to operate in these markets. Operators who conduct business outside of these definitions would require a PBO licence.

The inquiry met with the Wedding Car Association of Victoria (WCAV) and discussed the effects of these proposals on their members. While very supportive of reform of the SV and RH licence classifications, the WCAV preferred that some minimal regulation be maintained. The WCAV proposed that restricted hire vehicles be aligned to the following sectors: weddings, funerals, debutante balls and school formals.[14] Under this proposal, RH licences would be set at $2,000, with the annual licence fee of $138 retained. The Association argued that the need to obtain police checks and vehicle RWCs through a regulated body ensures a level of consideration by the market entrant. It also suggested it would be beyond an industry-based organisation such as the WCAV to administer an accreditation-type program.

While noting these concerns and proposals, the inquiry observes that the over-riding concern continues to be that vehicles are not being used properly under the current purpose-based classification system. A clear signal needs to be sent to the public that only vehicles of certain types should be used in a registered system, removing the ambiguity presented by modern sedan vehicles as to whether they hold full operating rights or wedding or tour conditions.

The WCAV also made the point that stretched vehicles require some form of regulation under the new licensing proposals. While the majority of stretched vehicle work is in the wedding industry, the WCAV argued that some operators also pick up other work in the PBO market. The WCAV proposed a $6,000 limousine licence for vehicles that can carry in excess of six passengers providing they are not classified under the *Bus Safety Act 2009*. The argument has also been made in a number of operator submissions that stretched vehicles should be permitted to provide a greater variety of work than that defined by the SV and RH categories, but that they should not have to pay the full VHA/B/C fee for a licence. The argument put forward is that stretched vehicles do not operate like sedan vehicles and pose only limited competition to VHA/B/C sedans for airport transfers or major events. Operators gave different opinions on what they believed should be the price of a stretched vehicle licence with full operating rights, ranging from $5,000 to $20,000.

The inquiry considers that the rationale for licensing and registration systems for PBOs should reflect the rationale for licensing of taxis in Victoria. As the inquiry has noted consistently, the purpose of regulating commercial passenger vehicles is to address the market failure (information asymmetry) that a customer has very little knowledge about the service they are purchasing when catching a taxi. This informational gap is greatest in the taxi rank and hail market where the 'next cab off the rank' is taken. Regulations therefore allow a level of control over who drives and operates the taxi and the safety of the vehicle. In the hire car market, these customer information gaps are lessened by the fact

14 Wedding Car Association of Victoria, Meeting with the Taxi Industry Inquiry, September 2012

that customers pre-book the service. In the PBO and limousine markets, there are still sufficient concerns around information asymmetry to warrant a licensing regime. However, for certain vehicles – namely off-road, motorcycles and tricycles – the inquiry believes a registration system is the correct approach.

The inquiry considers that a stronger rationale exists for licensing stretched vehicles. Vehicles of this type have had significant body work and, while proven roadworthy under the VicRoads roadworthiness test, concerns have been expressed about their age and internal support structures. The risk is heightened by the large number of passengers (similar to a small bus) that many of these vehicles can carry. A licensing system for stretched vehicles allows the regulator to maintain a level of control over the maintenance and repair of these vehicles for the safety of passengers.

The inquiry has considered the views expressed by the industry and concluded that the regulator should continue to oversee certain non-PBO hire cars. Accordingly, the inquiry is recommending a vehicle-based registration system for two types of restricted purpose vehicle types and a licence option for stretched vehicles. Vehicles that do not fit into one of these two Registered Hire (RH) categories, unless conducting wedding or tour work, will be required to purchase a PBO licence, which will give them full operating rights. The vehicles included under the RH model are:

- Motorcycles and tricycles (RH Motorcycles)
- Vehicles with special off-road features (RH4WD).

The fee for entry to the registration scheme will be set at the administrative cost to the regulator ($1,500 GST exclusive), with annual payments set at prices more appropriate to the operating costs of the enforcement task.

Under this model, vehicles used for weddings and tours will no longer be subject to licensing or registration requirements as small commercial passenger vehicles and will not be regulated by the Taxi Services Commission. Vehicles used for tours may be subject to regulation under the *Bus Safety Act 2009* and *Bus Services Act 1995*. Vehicles used to provide non-wedding or non-tour services will need to fit into one of the RH categories listed above or be licensed as PBOs or stretched vehicles. Removal of these types of services from taxi and hire car regulation will ensure that operators wishing to provide a competitive service to taxis will need to purchase a PBO licence.
RH 25 years+ licence holders should be permitted to continue operating the licence for the life of the current vehicle; however, no new RH 25 year+ licences should be issued.

The reform of the non-PBO market should allow the TSC to clarify the definition of ‘tour’ to remove any uncertainty around how this deregulated sector will operate. This could be done by designating certain tourist attractions across Victoria (as done in the bus sector) as constituting ‘tours’. This would make it clear to businesses what is and is not a ‘tour’ and therefore not regulated. For example, the tourist attraction of Port Phillip Bay / fairy penguin watching would be a designated ‘tour attraction’, whereas events such as the Spring Racing Carnival and the AFL Grand Final would not be designated (as work relating to these events should be solely undertaken by the PBO and taxi markets).

The inquiry is recommending the introduction of a stretched hire car vehicle licence, which will be available for $15,000 (GST exclusive) in the Metropolitan zone and $10,000 (GST exclusive) outside this zone. This licence will entitle the holder to operate their vehicle anywhere in their designated zone, except at airports. Stretched vehicles that choose to operate at airports will need to purchase a more expensive PBO licence.

The inquiry considers that these changes to the hire car industry will help to more clearly identify those operators working illegally. Under these proposals, only vehicles with a clearly marked sticker on their windscreen and number plate identification will be able to operate from Melbourne Airport (unless for a wedding or package tour). The industry has emphasised very strongly to the inquiry that the licensing system is confusing and difficult to enforce, with claims of touting aimed squarely at SV sedan vehicles. The problem clearly lies in regulation that permits purpose-based licensing at a fraction of the cost of a full licence. Addressing these problems appears to require the complete reform of licence classification, as proposed by the inquiry.

The case for more consolidated licences has been debated in the past. The view of many SV and RH licence owners has been that it would penalise service providers who want to provide a high quality vehicle, but who do not require the broad rights applicable under hire car operations and therefore do not want to pay higher licence costs. In past reviews of the industry, tour and wedding operators have seen such suggestions as an impediment to the growth of their businesses. However, the nature of the wedding car and tour segments does not justify a heavy handed

approach to regulation. Vehicles are pre-booked, often months in advance, and there is a well-established online environment through which customers provide extensive feedback on service. The inquiry considers that there is scope for the WCAV in particular to play an enhanced role in industry self-regulation, either through a code of practice, an accreditation scheme or some other arrangement.

4.4.1 Melbourne Airport

The inquiry's proposals will potentially create a new market opportunity for PBO licence holders at Melbourne Airport, while – at the same time – addressing the serious problem of touting. If implemented, these reforms will allow customers to organise a PBO from a kiosk located inside the airport terminal. Once booked, passengers can be directed to a designated pick up zone, where a vehicle will be waiting.

The inquiry has considered the comments and suggestions made in submissions in relation to this proposal. Foremost, it is clear that such a kiosk must be well managed to be successful and to avoid introducing more hire car vehicles and drivers into the airport's forecourt area. Infrastructure will be a critical component, with space made available for a desk and a waiting zone for passengers, and the ability for the kiosk operator to communicate directly with cars stationed away from the terminal area. A well-managed PBO kiosk could communicate directly with drivers in an off-site car park and quickly bring vehicles to waiting passengers. The inquiry's view is that such a kiosk has the potential to reduce touting, as it will be more apparent that drivers 'hanging around' the airport terminals do not have legitimate bookings.

The inquiry also recognises the importance of a competitive and accountable kiosk system. If a kiosk is run by one network of hire car operators, it is unlikely that consumers will receive the best service fee offering. Rather, the kiosk should capitalise on the fact it is the end point for a number of journeys and that hire cars are more likely to take a lower cost fee than return to base. A competitively based bidding system would ensure the best price for customers. The inquiry notes that mobile-to-mobile bidding systems are already being used in the industry with great success. The inquiry considers that any tender based project offered by airport terminal operators to run a kiosk should consider having more than one operator network to provide services.

4.4.2 Touting

The inquiry agrees that touting is a problem that must be tackled and has recommended giving the TSC adequate powers to deal with touts and a review of penalties for touting. However, tougher penalties will be largely meaningless without effective enforcement action by the TSC and greater public awareness of the new PBO market conditions. As noted in the Draft Report, the inquiry found few infringement notices were issued to the hire car industry – the result of difficulty in identifying offending vehicles, but also possibly due to a lower priority being given to tackling this problem.

The inquiry's view is that its hire car licensing recommendations and its broader recommendations around better vehicle identification, along with a risk-based approach to enforcement, will assist in reducing touting. However, the inquiry still expects the TSC to adopt a much tougher enforcement approach, particularly around venues where PBOs may be touting for the custom of rank and hail passengers.

To further enhance compliance within the new PBO regime, the inquiry is making an additional recommendation to enhance public education around how to book, identify and provide feedback on PBO vehicles.

The inquiry also notes the suggestion by TISV for the industry to fund full time, on-site policing by the regulator at Melbourne Airport. More broadly, as noted in chapter 11, the inquiry considers that industry funding of the Taxi Services Commission has significant merit.

4.5 Final recommendations

2.1 The policy of hire car licences being available for purchase at a set price and 'as of right' to approved applicants in the Metropolitan hire car area should be extended to the Country hire car area. As a consequence, the restrictive public interest test currently applying to the issue process for country hire car licences should be removed.

2.2 The existing Metropolitan hire car zone should be expanded to align with the Metropolitan and Urban taxi zones (as set out in Recommendation 1.6). Areas outside of this (which includes the Regional and Country taxi zones (as at Recommendation 1.6) should form a new Country hire car zone. New and existing licences VHA, VHB, VHC and other current licences with full operating rights (including hybrid licences) should be authorised to operate a Pre-Booked Only (PBO) service in the relevant zones. The existing licences should transfer to the new PBO category.

New PBO licences should be available for purchase by approved applicants at a one-off set price established for each zone (as below):

- Metropolitan hire car zone: $40,000
- Country hire car zone: $20,000

2.3 The PBO licence should have a uniform set of conditions set in regulation, including that they are:

- Of no fixed term
- Transferable
- Non-assignable (the rights to operate the vehicle cannot be assigned to another party)
- Restricted to pre-booked operation only
- Restricted to operation within the zone(s) for which they are issued.

2.4 The current (minimum) requirement for existing hire car licence holders to purchase a vehicle meeting the luxury vehicle tax threshold should be removed.

2.5 All PBO drivers should continue to be required to be accredited and a new requirement added that they display their accredited driver ID prominently inside the vehicle.

2.6 The mandatory requirement currently in place for metropolitan hire car drivers to undergo the *Course in Taxi Driving* should be removed and metropolitan PBO drivers should not be required to sit the independent Knowledge exam (refer Recommendation 5.4). Accredited permit holders operating PBO services should be required to ensure the adequate training, skills and competence of their PBO drivers by, for example, delivery of their own induction and training program or by choosing to send drivers to all or part of a taxi driver training course.

2.7 PBO vehicles should be easily identifiable to the public and regulators by a specific number plate prefix and a visible, prominent permanent sticker on the windscreen. Consistent with Recommendation 7.2, PBO vehicles will be required to provide in-vehicle access to customer information that is compatible with smartphone technology and display any other customer information that is determined by the Taxi Services Commission.

2.8 A new Stretched Vehicle licence category should be available for purchase to approved applicants at set one-off prices of $15,000 for Metropolitan hire car zone operators and $10,000 for Country hire car zone operators. The Stretched Vehicle licence should provide the licence holder full operating rights, excluding at the airports. Stretched vehicle operators who wish to operate at the airport will need to purchase a full PBO licence.

2.9 The Stretched Vehicle licence should have a uniform set of conditions set in regulation including that they are:

- Of no fixed term
- Transferable
- Non-assignable (the rights to operate the vehicle cannot be assigned to another party)
- Restricted to pre-booked operation only

Not permitted to operate at Melbourne or Avalon airports.

2.10 A vehicle-based registration system should be established for two types of restricted purpose vehicles that currently operate under a Restricted Hire (RH) licence: motorcycles and tricycles, and vehicles with special off-road features (4WDs). Registration of these vehicles will be available 'as of right' for an upfront payment of $1,500 and an annual registration fee of $500 to applicants who satisfy basic entry requirements of proof of identity and a national police check. Existing RH vehicles and Special Purpose Vehicles that fit the vehicle categories set for the new registration scheme should transfer automatically to the new Registered Hire category at no charge, and then be made subject to the new annual fees.

2.11 Vehicles used only for weddings and tours will no longer be required to be licensed or registered by the Taxi Services Commission. If used for other commercial hire services, they will require a PBO licence.

2.12 Any person operating a Registered Hire or Stretched Vehicle licence and found to be operating outside of the conditions of their registration or licence will be deemed to be operating as an unlicensed PBO.

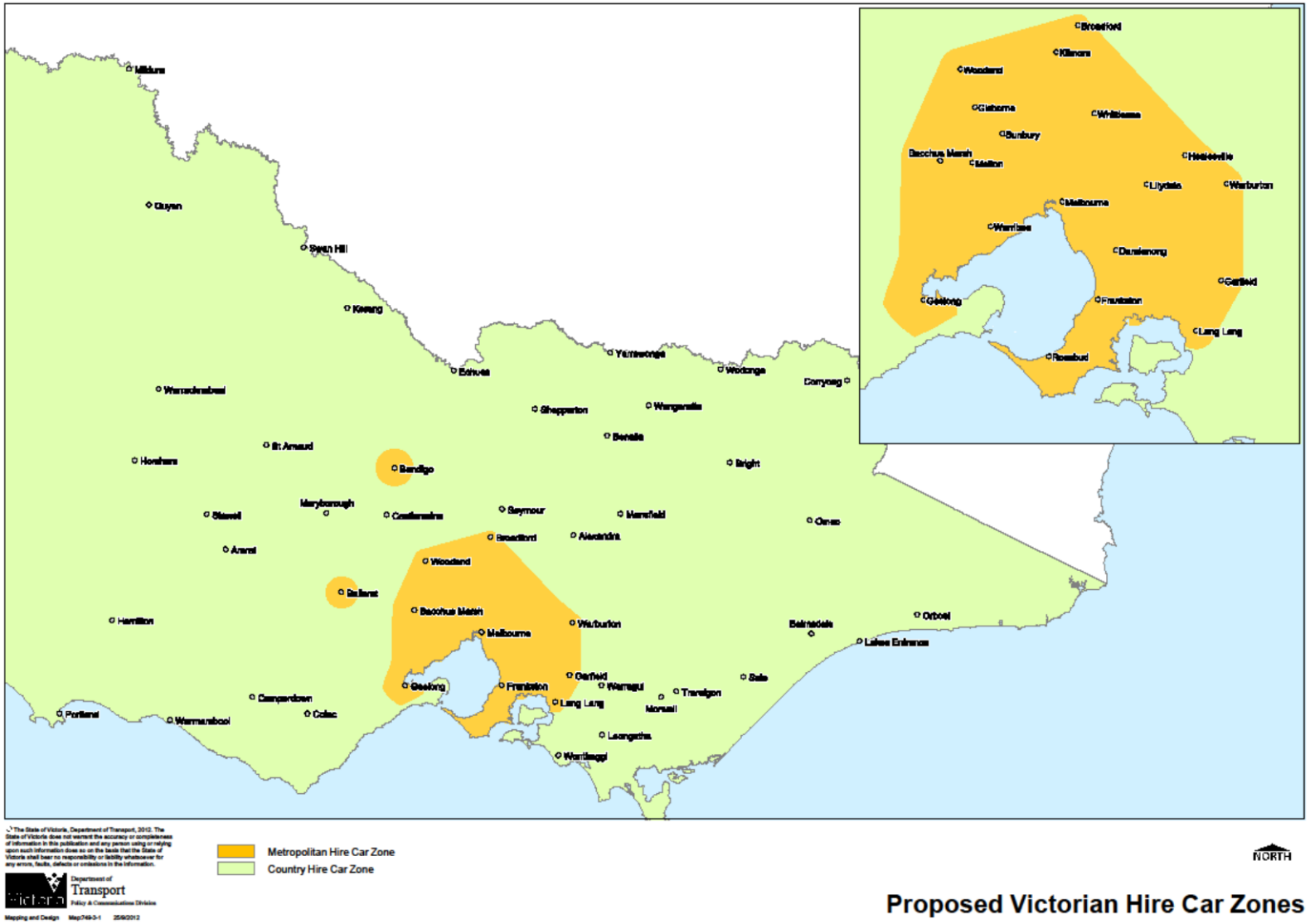
2.13 A more orderly approach should be adopted at Melbourne Airport to provide a smoother process of pick up and drop off of customers and to deal with the problem of touting, including:

- The terminal operators making available rental space to a third party or parties to provide a PBO cabs booking kiosk
- Consideration that any tender offered by terminal operators at Melbourne Airport for a PBO booking kiosk should provide access for more than one operator or network to the booking kiosk, to enhance competitive pressures between operators
- Ensuring adequate on-site and off-site parking facilities for PBO cabs
- A designated pick-up area for drivers to meet customers.

2.14 The Taxi Services Commission should establish a Working Group including representation from the Commission, Melbourne Airport, the Victorian Taxi Association and hire car industry representatives to consider implementation of the Taxi Industry Inquiry's recommendations concerning the airport and future initiatives.

2.15 As a matter of priority the Taxi Services Commission should develop strategies to ensure the elimination of illegal touting by unlicensed/unregistered or licensed/registered operators and report on progress regularly. The Commission should be given adequate powers to deal with unlicensed/unregistered operators and vehicles touting for work. Penalties should be increased to provide sufficient deterrence to prevent illegal touting.

Figure 4 Proposed Victorian hire car zones



5 More diverse and better vehicles

5.1 Inquiry's views in Draft Report

The Draft Report identified a range of problems associated with the vehicles currently delivering taxi and hire car services. The inquiry found that many of these problems stem from a complex and prescriptive regulatory framework that imposes significant costs on the industry and reduces its competitiveness. Allowing taxi and PBO permit holders greater choice in the vehicles and equipment they use (within a clearer, outcomes-based framework) could deliver substantial benefits to industry and consumers. It would also assist the industry in keeping up with new vehicle and equipment technologies, adopting innovations such as 'talking taximeters' and smartphone payment applications, and choosing vehicles that are purpose-built for accessibility and safety.

The Draft Report also responded to a number of regulatory concerns about taximeters. These included the lack of fare breakdown on the meter, the need for improved oversight and testing of meters, and prescriptive meter regulations that are increasingly out of step with current technologies – all of which translate to cost burdens on industry and hamper innovation. New taximeter standards would improve customer information, assist in fraud prevention, enable all components of the fare to be displayed and voiced, and ensure that meters are tested by expert independent service providers who would be subject to National Measurement Institute regulation. The inquiry noted that the voicing of fare components as they occur offers advantages to users with a disability and to the wider community.

Transmission of trip data direct from the taxi to the regulator (rather than through intermediaries) has the potential to greatly enhance understanding of industry performance and enable better targeted and more effective regulation of the industry. This data is also essential for the inquiry's proposed risk-based regulatory framework.

The inquiry examined the history and rationale for the introduction of uniform yellow taxi livery in Victoria. The inquiry considered that a modest financial benefit would be achieved by removing the uniform livery restriction, especially for regional taxi operators. The inquiry noted that removing this restriction would not only reduce the upfront costs of putting a new taxi vehicle on the road, but would also allow networks and operators to brand their fleets distinctively, enhancing their ability to compete with each other and enter new markets. The inquiry also considered that some regional cities and towns may prefer to maintain a distinctive uniform taxi livery for tourism or other purposes and saw no reason not to allow this. The inquiry sought comments on removing or modifying the uniform livery requirement.

The inquiry considered that advertising restrictions are costly for taxi operators, with scant evidence of any significant benefits arising from this prohibition. Two cities with iconic taxis, New York and London, both allow advertising in some form. The inquiry could see no justification for allowing public transport services to carry advertising, but not taxis.

The inquiry also reported that a number of taxi users and drivers find the dome lights on taxis in Victoria confusing and make it difficult for potential customers to know if a taxi is available.

Draft recommendations

The inquiry's draft recommendations aimed to encourage greater brand distinction and competition between ATOs and individual taxi businesses, and to deliver more diverse and more accessible vehicles across the commercial passenger vehicle fleet without compromising vehicle safety and standards. The inquiry's view was that, alongside reforms to increase competition within and between the taxi and PBO sectors, these recommendations will generate greater choice for consumers and enable the industry to offer new services, expand into new markets and attract more customers.

The inquiry made 11 draft recommendations in relation to vehicles and service differentiation:

- The inquiry notes that proposed changes to the Australian Disability Standards for Accessible Public Transport, in respect of allocated space for wheelchairs in vehicles, will lead to undesirable outcomes for accessibility, vehicle quality and operator costs and recommends that they not be adopted.

- The inquiry also notes that superior designed, purpose-built, universally accessible taxi vehicles are used in overseas jurisdictions – for example, the London 'black cab' – and should be allowed to operate in the Victorian fleet. The inquiry recommends that more flexibility be incorporated into federal and state standards to allow these vehicles to be used in Victoria, including as wheelchair accessible taxis.
- New outcomes-based vehicle standards should be developed for taxis and hire cars that allow for the use of wider range of vehicles offering better design, greater accessibility and improved fuel efficiency. These new standards should include a minimum requirement for all taxi and Pre-Booked Only cab vehicles to be compliant with Australian and Victorian vehicle-related legislation such as the Australian Design Rules, the *Victorian Road Safety Act 1986* and Road Worthy Certificate requirements.
- Vehicle standards should set requirements for:
  - Distinctive markings and features (enabling easy identification of the vehicle as a taxi or Pre-Booked Only cab), such as windshield stickers and/or distinctive licence plates, and require all vehicles to maintain a professional image
  - Larger, clearer displays of customer information inside the vehicle, such as in relation to fares, advising that safety cameras are in operation, and how to make a complaint.
- Standards for taximeters should set the following requirements:
  - Taximeters should include all components of the fare, including tolls
  - Taximeters should have the functionality to voice transmit all components of the fare to customers
  - Taximeters should be required to be accurate. Meters should be pattern tested, installed and verified by expert independent services providers in accordance with international and national standards
  - The regulation of taximeters should be subject to regulation by the National Measurement Institute under the Australian National Measurement Act 1960.
- All trip data should be transmitted directly from the vehicle to the Taxi Services Commission.
- Permit holders should be permitted to have advertising on their taxi and/or Pre-Booked Only cab vehicles, subject to stringent rules set by the Taxi Services Commission in relation to size, placement, subject matter and other requirements.
- No change should be made to vehicle age limits for taxis and Pre-Booked Only cabs at this time. The Taxi Services Commission should conduct further research into the influence of the age of vehicles on safety to determine whether to retain and/or amend age limits in the future.
- The regulation covering dome lights should be amended to be more outcomes-focused. These outcomes should include automation of signaling linkages from taximeters to the dome light to show the accurate status of the taxi (hired or available). Authorised Taxi Organisations should be permitted to adopt their own dome light design consistent with the new regulation.
- The inquiry notes that the regulation covering the colour of taxis could also be made more outcomes-focused to retain the requirements of distinctiveness and professional image, while also allowing for approved company branding. Specifically, the inquiry seeks feedback on the further possibility of:
  - Removing the requirement for all regional and country zone taxis to have yellow livery (whether affiliated with an Authorised Taxi Organisation or independent)
  - Allowing Authorised Taxi Organisations in the Greater Melbourne and urban zones to adopt their own distinctive liveries for their affiliated vehicles (subject to approval by the Taxi Services Commission)
  - Retaining the yellow livery requirement for all other vehicles in the Greater Melbourne and urban zones.
- Victoria should seek the support of other Australian jurisdictions for a more cooperative national approach to vehicle standards. In particular, the Victorian Government should actively pursue:
  - Greater consistency in vehicle regulations to assist manufacturers and importers in supplying more appropriate vehicles to the Australian taxi market as a whole (particularly in relation to wheelchair accessible vehicles)

– Supporting the National Measurement Institute to take responsibility for regulating taximeters Australia-wide and working with jurisdictional taxi regulators to set appropriate national standards for meters.

5.2 Issues raised in submissions

Of those submissions that commented on the inquiry's proposals for more diverse vehicles and greater service differentiation between vehicles, the vast majority were in favour of allowing purpose-built vehicles and a wider range of vehicles into the Victorian fleet. For example, the RACV supported the move to introduce international vehicles to service local demand, while VECCI noted some of the benefits of a more diverse range of vehicles:

> *We strongly support recommendations for outcomes-based vehicle standards that provide greater accessibility, improved fuel efficiency and greater passenger comfort and amenity. For example, current taxi vehicles that operate on LP gas have little space for luggage due to the gas tank being located in the boot of the car. This can be a great inconvenience for business and leisure travellers alike.*[1]

The Victorian Disability Advisory Council supported the removal of all barriers to a universally accessible taxi and introducing standards to support these vehicles, particularly for wheelchair and scooter users.[2] Scope noted that current standards are too stringent, without any real assessment of risk.[3] Of the London black cab, Scope observed:

> *While London cabs do not meet all Disability Standards for Accessible Public Transport, and will therefore not meet the needs of the majority of people with disabilities, their design is such that many people with disabilities could still use them. As such, their acceptance would increase the number of options available.*[4]

Some networks and operator groups, while not opposed to the use of London black cabs, commented that they had been introduced to Melbourne in the past and had not been proven successful or suitable for use as a commercial passenger vehicle in Australian conditions. TISV stated that, at the time, these vehicles were expensive to purchase, maintain and operate, which outweighed any benefits they provided.

Two anonymous submissions provided detailed information about the current features of London taxis. This included their superior accessibility features, five seat capacity, safety features and general quality and durability. One submission recommended that licence fees, vehicle age limits and government subsidies be used to encourage the uptake of these vehicles in the Victorian fleet.[5]

Blind Citizens Australia and VEOHRC urged the use of tactile information within vehicles for the benefit of vision impaired customers. Blind Citizens Australia also called for noise emitting devices to be installed in taxis to alleviate the danger of silent electrical vehicles such as the Toyota Prius to vision impaired pedestrians.

The VDAC was concerned that the Draft Report did not address the matter of the refusal of WATs to carry particular types of wheelchairs and scooters and urged the inquiry to make a specific recommendation for the development of new types of restraints to deal with this problem.

A number of submissions observed that moving to purpose-built vehicles where the driver is physically separated from the passenger would improve driver safety significantly.

Networks generally supported the recommendation for more distinct markings and clearer displays in vehicles. Most submissions were in favour of removing the ban on advertising. Nearly all country operators supported this recommendation, recognising its potential to boost their incomes and improve their viability.

A majority of submissions endorsed allowing ATOs to adopt their own dome light designs. The Geelong Taxi Network supported a review of dome light design subject to any new standards providing clear benefits for customers:

1 VECCI submission L180, p. 3
2 VDAC submission L186, p.5
3 Scope submission E346, p. 14
4 Ibid, p.14
5 See anonymous submissions 660 and 728

The regulations covering dome lights could clearly be amended to show the status of the taxis either (hired or available) as is seen in some countries overseas.[6]

5.2.1 Transmission of trip data to the TSC

A small number of operators opposed the transmission of trip data to the TSC on the basis that it is unnecessary, impractical or has privacy implications. Some submissions supported the recommendation provided it does not impose additional costs on operators.

The VTA supported the transmission of taxi data to a central point and acknowledged its value in informing policy decisions relating to taxis. However, the VTA queried how this can be achieved if mandatory affiliation to an NSP is removed. The VTA also argued that any requirement to 'live stream' data' in regional areas should not be mandatory and that the current reporting requirement be retained.

The Australian Taxi Drivers Association viewed "the recording and reporting of trip data [as] essential" to achieving reform objectives, while observing that it will take "some time and considerable changes to in-cab technology" to provide this information to the TSC.[7]

The Youth Disability Advocacy Service saw additional benefits in the transmission and analysis of such data:

Information about cab type (e.g., WAT/Non-WAT) should also be transmitted to the Commission, as well as whether this trip was completed by an MPTP user. This could assist in the assessing where WAT's are most frequently used and the allocation of these in various areas.[8]

CabFare's submission urged the inquiry to clarify that data should be provided on a 'real time' basis and to pursue the recommendation as a priority to promote 'open systems' and competitive outcomes. CabFare considered this recommendation (in conjunction with others regarding the collection, transmission and analysis of trip data) as having the potential to deliver "the least cost and highest quality public benefits in the shortest time frame if implemented correctly".[9]

At the inquiry hearings in August 2012, TISV representatives indicated their strong support for the direct transmission of data from the meter to the TSC, stating that it was critical to monitoring the effect of policy decisions on the industry. TISV also recommended:

…that the TSC when established adopt a sharp, corporatised, private sector approach or response with monitoring, collection of complete data sets, the conducting of proper financial and statistical analysis with the result being quick, corrective actions to rectify all industry issues and problems as they arise. [10]

5.2.2 Taximeters

Many within the taxi industry, particularly operators, supported the continuation of current model taximeters, arguing that they provide a reasonable service. However, networks and business groups supported improvements to meters that would provide clear and transparent pricing. For networks, this support was conditional upon there being no additional financial impost on operators or the cost of meter improvements being incorporated into fares.

A number of operators also expressed concern about the costs involved in changing over to newer taximeter equipment (while endorsing the inquiry's outcomes-focused regulatory approach as supporting their right to choose equipment for their vehicles).

The use of 'talking taximeters' was strongly supported by taxi users with a disability. Scope reported that its members were unanimous in their support for talking meters.

6 Geelong Taxi Network submission E465, p.20

7 ATDA submission E30, p. 2

8 YDAS submission E495, p. 16

9 CabFare submission E505, p. 4

10 TII hearings, submission by Mr John Vlassopoulos, Mr Jim Sikavitsas and Mr Ross Walker, TISV, 14 August 2012

Some networks disagreed with the draft recommendation to refer taximeter pattern and type testing to the National Measurement Institute (NMI) along with oversight of taximeter testing and auditing. They argued that it is unnecessary, that international taximeter standards have been demonstrated as inappropriate for Australia and that involving the NMI may have the effect of slowing innovation in this rapidly evolving area.

5.2.3 Removing the requirement for uniform livery

Many submissions supported the removal of the uniform yellow livery requirement. However, there was also strong support for maintaining the requirement. A number of submissions supported restricting any change to country areas and retaining the yellow livery in Melbourne. For example, the VTA stated that the yellow colour scheme should be retained in metropolitan Melbourne "as it makes taxis easier to identify in populated and congested areas, assists the visually impaired in finding taxis and has become an iconic symbol of Melbourne".[11]

The City of Melbourne submission expressed a strong preference for maintaining the yellow livery, based on the ease in identifying taxis for tourists and the distinctiveness of the fleet that gives a professional image of the industry.

A number of individual operators also saw value in the yellow livery. A submission from Dandenong was typical of those supporting the retention of the yellow livery:

> *I believe that the yellow livery has been a huge benefit to the industry in general. Other than the cost imposed on the operator, the yellow livery has shown the public a unified industry, that is clearly distinct from private vehicles, and that is highly visible and aids in safety on the road.*
>
> *Rather than promoting individualism, the industry should be more focused on coming together and working as unified group, for the benefit of the general public.*
>
> *One further issue to allowing distinct livery for ATOs would be the hindrance it would cause for operators should they wish to change to a different NSP. It would be cost prohibitive to have to repaint a vehicle in another colour, just to change companies.*[12]

A number of operators endorsed retaining a uniform livery, but nominated white as their preferred colour.

Very little comment has been received by the inquiry on the competitive benefits of different coloured livery from either the taxi or hire car sectors. Frankston Radio Cabs noted that it already has approval for distinctive branding and sees this as critical in differentiating its service "amongst a mass of yellow cabs"[13] – suggesting that different livery or distinctive branding has competitive and consumer benefits.

5.3 Inquiry's response to submissions

A core element in the inquiry's package of reforms is to boost competition within the taxi industry and between the taxi and hire car sectors. It is difficult to see how this can be achieved while taxi operators and networks remain highly constrained in the types of vehicles and equipment they can use and their ability to differentiate their service offerings. Accordingly, the inquiry welcomes industry comments that express a willingness to embrace greater competition and service innovation.

5.3.1 Transmission of trip data to the TSC

One of the problems facing those seeking to develop and implement taxi regulation and policy is the limited operator and trip data available. As the inquiry noted in its Draft Report, successful, effective and sustainable reform must be evidence-based. While the inquiry obtained more information about the Victorian taxi and hire car industry than previously – and undertook extensive analysis and modelling based on this information – it was constrained in a number of areas by inadequate data due to the inability (and, in some instances, the unwillingness) of the industry to provide data and the failure of the regulator to collect such data. The absence of a reliable, verifiable and

11 VTA submission L179, p. 16

12 Andre Landman submission E427, p.35

13 Frankston Radio Cabs submission L119, p. 8

comprehensive source of operator and trip data undermines effective regulation, constrains competition, hinders consumer choice and makes it difficult to better integrate taxi and hire car services with the broader transport system. This situation should not be permitted to continue.

The inquiry remains of the view that the best way to obtain this information is directly from the cab. The inquiry sees no reason why in-vehicle equipment cannot be installed or reprogrammed to meet all relevant requirements to transmit data to the TSC in real-time, irrespective of whether a permit holder is affiliated to an ATO and irrespective of whether they are based in a metropolitan or other zone. The inquiry shares the views of TISV, CabFare, the ATDA and others regarding the importance of this recommendation and the need to implement it as a priority.

In relation to privacy concerns raised about the data gathering powers of the TSC, the inquiry's view is that these concerns are misplaced and reflect a misunderstanding of the nature of the data being collected and the use to which it will be put by the regulator. There is no need for individual passengers to be identified in collecting this data and other details are no more than any other regulated industry should be expected to provide to the regulator. In addition, Victoria has stringent privacy laws and protections in place that can be applied to this process if necessary. The TSC will need to ensure that appropriate risk mitigation and data protection mechanisms are implemented that will prevent public identification of individuals. The New York City Taxi and Limousine Commission has demonstrated that such an approach is possible and workable over the past three years and (in tender documents released during 2012) is now advancing to a new generation of technologies that extend these capabilities.[14]

The inquiry reiterates that the benefits to both consumers and industry from the regulator having access to this real-time operational data are substantial. Without such data, it is difficult to see how policy makers and the regulator can assess the success or otherwise of current regulations and policies, or design and implement effective new policies. It also acts as a constraint on competition, as consumers have no means of comparing performance between taxi networks and/or operators. The inquiry sees access to this data as being critical to the successful implementation of industry reform and to improving services for customers.[15]

The inquiry further notes that initiatives relating to data collection are often overlooked when undertaking significant industry reform, partly because of the costs involved or the practical difficulties in obtaining and collating large volumes of information. However, the technology is now available to collect this data in real-time without involving the industry or the regulator in substantial additional costs. The inquiry acknowledges that there are complexities associated with reaching the point where the entire taxi fleet is transmitting real-time data to the regulator, and that the full and effective delivery of this initiative will take time and most likely evolve as new technologies come on-stream. However, the inquiry sees this initiative as a priority for the new regulator and urges the TSC to immediately start work on timelines and policies for its implementation.

5.3.2 Taximeters

In relation to the cost concerns about new taximeters raised in some submissions, the inquiry found that, irrespective of the implementation of its proposed reforms, most meter and despatch system suppliers are already advanced in their development of integrated in-vehicle technologies. Some of these systems, such as the Cabcharge Fareway system, are now in production for deployment.[16] The inquiry expects that industry suppliers will encourage operators to take up these new systems with various options for leasing, deferred payment and other methods of cost offsetting and commercial incentives for operators. The inquiry has also been told by long term operators that in-vehicle equipment assets are able to be treated as depreciable items. Meter costs contribute to the cost of doing business and can be claimed as legitimate operating costs for taxation purposes. This means that costs are effectively defrayed over a three to five year period.

The inquiry disagrees that NMI oversight is unnecessary for the reasons already stated in chapter 23 of the Draft Report. Taximeter suppliers sell equipment across Australia in multiple jurisdictions and told the inquiry that they had difficulties coping with the different regulatory approaches adopted in each state for very similar equipment. Industry

14 NYC TLC alternate technology program, accessed 5/9/2012 at http://www.nyc.gov/html/tlc/downloads/pdf/industry_notice_12_19.pdf

15 The broader implications for the regulator of collecting and analysing this data are discussed in chapter 11.

16 Cabcharge 2012 Chairman's Report, p. 3, accessed 5/9/2012 at http://www.asx.com.au/asxpdf/20120823/pdf/428695d40fv3y3.pdf

participants and suppliers also told the inquiry that earlier attempts to apply international standards for taximeters to an Australian context failed. They indicated that this was due to being unable to convince the various authorities that these international standards needed be adapted to better reflect the needs of Australian jurisdictions.

The inquiry has held discussions with the NMI and the Institute has confirmed that there is an immediate opportunity for Australian regulators to participate directly in a forthcoming review of international taximeter standards. The NMI have told the inquiry that suppliers, regulators and other relevant industry participants are able to work together to collectively contribute to ensuring that Australian needs are adequately reflected in a revised set of global standards – and that this work can commence immediately.

5.3.3 Removing the requirement for uniform livery

While mandated yellow livery makes taxis instantly visible and identifiable, the inquiry found that further benefits are not significant. A competitive taxi industry must be able to brand its products and a single fleet colour makes it very difficult to do so. While NSPs currently brand their taxis with the network name, most taxi users have trouble identifying the particular NSP to which their taxi is affiliated. The inquiry finds it disappointing – but hardly surprising in a highly regulated industry such as the Victorian taxi industry – that there was little appreciation of the competitive benefits of distinctive branding. There are many cities, in Australia and elsewhere, where taxi livery is not uniform and where customers appear to have little difficulty in identifying a taxi vehicle and regulators are able to maintain a 'professional' image across the taxi fleet.

Easier identification of taxi companies also has the capacity to improve safety as customers are more likely to recall which ATO is responsible for their taxi if its livery is distinctive.

The inquiry recognises the strong support from industry elements, business groups and the broader community for retaining the yellow livery requirement in Melbourne and is recommending that the requirement be removed in the first instance for taxis operating in Urban, Regional and Country zones (where the greatest benefits will accrue to operators through reduced costs). In these areas, operators would be permitted to adopt their own livery subject to meeting requirements to maintain a professional image. The inquiry's view is that the TSC should issue guidelines about how it expects taxis to look: for example, that their livery should ensure they are not easily confused with other vehicles, such as emergency services vehicles. The inquiry anticipates that the TSC's role will be one of assessing whether liveries fall within these guidelines and that approval from the regulator should be swift and not become a hurdle for operators and ATOs.

In the Metropolitan zone, the requirement for yellow livery would be maintained. Given the competition benefits that flow from distinctive branding, the inquiry recommends that ATOs be allowed to adopt their own dome light designs (consistent with outcomes set in regulation). This will enable ATOs to adopt designs that are distinctive and that customers can easily recognise. Other cities, notably Tokyo, have adopted this approach with considerable success.

The inquiry is recommending that the TSC continue to monitor this issue and consider removing the uniform livery requirement in the Metropolitan zone if it emerges as a significant impediment to greater competition between ATOs. If Urban zone networks move to adopt new distinctive liveries, the introduction and operation of the new shared zone (see section 3.6.2) may provide an opportunity to monitor the effects of different liveries on consumer choice and competition.

5.3.4 Developing a better quality taxi fleet

The inquiry considers that a strong case exists for improving the vehicles used as taxis in Victoria. At present, most taxis are second hand 'executive' vehicles that have been purchased at auction and retro-fitted to meet regulatory requirements, such as being painted yellow, having a dome light fitted and being converted to LPG. While retro-fitted safety screens offer some protection for drivers, they are not comfortable and many drivers prefer not to use them.[17] Further, these vehicles are not wheelchair accessible; nor are they particularly comfortable or spacious for passengers, especially those carrying luggage or prams.

17 This issue is discussed in greater detail in chapter 8.

The inquiry considers that, in the absence of further government intervention, the kinds of vehicles used by taxi operators do not deliver the full safety and accessibility benefits available from using better quality vehicles.[18] The inquiry has also found that there are likely to be benefits from adopting a comprehensive, rather than piecemeal, approach to questions of vehicle security, safety and accessibility.

Purpose-built taxis, of the kinds used in London and more recently in New York, have considerable advantages over retro-fitted sedans or commercial vans. They are safer for drivers (as they have built-in separation between passengers and drivers), more accessible for passengers (and often wheelchair accessible), offer greater passenger comfort (including more seats and greater luggage capacity) and can incorporate specific features (such as automatic doors, meter displays in the passenger section and separate climate controls in the driver and passenger sections).

An improvement in vehicle quality across the Victorian fleet, and particularly a move towards a purpose-built taxi, could be pursued in a number of ways:

- Through regulation that would prohibit the use of vehicles that do not meet minimum standards of safety and accessibility (with the costs of these better vehicles factored into the regulation of fares)
- Through regulation that encourages the use of better vehicles through more favourable regulatory treatment (such as extending vehicle age limits for better, more expensive vehicles)
- Through direct incentives such as a vehicle subsidy scheme or cheaper new licence prices or other kinds of subsidy.

The inquiry recognises that, to the extent possible, any regulatory action should minimise the costs imposed on either Victorian taxpayers or taxi users.

One issue for the inquiry has been to determine the additional costs associated with the acquisition and use of purpose-built vehicles. The inquiry understands that the cost of these vehicles has fallen substantially in recent years, suggesting that a move towards these vehicles could be achieved at relatively low cost to taxi users or government.

The inquiry understands that the cost of procuring a purpose-built taxi would be around $50,000.[19] The maintenance costs of such a vehicle would also be higher. However, at face value, the capital costs associated with a new vehicle at $50,000 with a 10-year vehicle life are only slightly more than the capital costs of a used vehicle acquired for $23,000 with a four-year vehicle life (that is, acquiring a 2.5-year old sedan and running this vehicle until the end of its 6.5-year allowable age).[20]

Accordingly, the inquiry considers that only relatively small financial incentives might be required to induce more operators to choose purpose-built taxis. Alternatively, only a relatively small increase in taxi fares might be required to incorporate the additional costs of these vehicles. In addition, in a more competitive market, these taxis would be preferred and sought by passengers and thus have higher occupancy.

18 In part, this is due to the fact that operators cannot appropriate the benefits of investing in better vehicles; nor do they take into account the benefits to drivers of safer vehicles.

19 In New York, the new Nissan taxi is available at a price of around $US50,000. A new London black cab can be purchased for around £32,000 ($A50,000).

20 Converting the capital costs into an annuity (covering both a return of, and return on, capital) with an interest rate of eight per cent, the following can be calculated:

Vehicle cost	No. of periods	Yearly payment
$50,000	10	$7,451
$23,000	4	$6,944

The costs at $40,000 would be less than $6,000 per year – cheaper than for the standard conventional vehicle. At $60,000, the difference would increase to around $2,000 above the conventional taxi.

There are advantages and disadvantages associated with each of the approaches to improving vehicle standards, as summarised in Table 6.

Table 6 Advantages and disadvantages of various approaches to improving vehicle standards

Approach	Advantages	Disadvantages
Regulating stringent minimum safety and accessibility vehicle standards, and incorporating any additional vehicle capital and operating costs in fares	Greater certainty of outcome No cost to taxpayers	Uncertainty about cost and necessary fare increase Cost for taxi users, including those who are happy with current vehicles Compulsory nature means high likelihood of delay
Regulating basic minimum vehicle standards, but favouring vehicles with higher standards of safety and accessibility (longer vehicle life)	Low cost for taxi users and taxpayers	Longer vehicle life may not be sufficient to induce operators to use better vehicles
Vehicle subsidy scheme	Prospects for rapid uptake, fewer transitional issues Relatively low-cost subsidy model already in place for WAT subsidies in country areas which could provide a model	Cost for taxpayers Difficult to determine necessary level of assistance, although subsidy design issues can mitigate this risk (e.g. require co-payments, cap size of subsidy)
New licence price reduction	Prospects for rapid uptake, fewer transitional issues No cost to taxpayers	Uncertain effect on conventional taxi licence values No benefit to existing licence owners that would like to convert to purpose-built vehicles

Weighing these advantages and disadvantages, the inquiry is recommending the introduction of a limited purpose-built vehicle subsidy to encourage the uptake of these vehicles and to assist in determining the costs of converting all or a larger part of the taxi fleet to these vehicles in the longer term.

In regards to the concern of Blind Citizens Australia about the danger of hybrid vehicles, the inquiry considers that this issue needs to be addressed when taxi vehicle specifications are next reviewed. The inquiry understands that these devices cost very little and considers that it should be mandatory to install them in all hybrid taxi vehicles.

In relation to VDAC's concern about the inability of WATs to carry particularly large scooters and wheelchairs, the inquiry refers to work underway through the Disability Standards for Accessible Transport (DSAPT) review process that aims to have government, the taxi industry and mobility aid manufacturers working together to ensure these mobility aids can be carried by taxis.[21]

5.4 Final recommendations

3.1 The Taxi Services Commission should submit to the upcoming second review of the Australian Disability Standards for Accessible Public Transport (DSAPT) about the adverse outcomes for accessibility, vehicle quality and operator costs that are likely to arise from the proposed requirement for a three dimensional

21 Further discussion of DSAPT is included in chapter 10.

allocated space for 'accessible taxi vehicles' (to be introduced 1 January 2013), and why State regulators should be allowed some flexibility in regards to minor intrusions into a three dimensional space in setting regulations.

3.2 Superior designed, purpose-built, universally accessible taxi vehicles that are used in overseas jurisdictions – for example, the London 'black cab' and the New York Nissan NV200 - should not be prevented from operating in the Victorian fleet as conventional and wheelchair accessible taxis (WATs). These vehicles should exist in addition to DSAPT-approved WATs and, when transporting wheelchair passengers, be eligible for wheelchair trip incentives including the Multi Purpose Taxi Program subsidy and the driver lifting fee.

3.3 New outcomes-based vehicle standards (focusing on safety, accessibility and comfort especially) should be developed as soon as possible, to encourage a wider range of taxi and PBO vehicles, including purpose-built vehicles. The new standards should include a minimum requirement for all vehicles to be compliant with Australian and Victorian vehicle-related legislation such as the Australian Design Rules, the *Victorian Road Safety Act 1986* and Roadworthy Certificate requirements. To the extent that the new standards impose additional costs on permit holders, these should be considered as part of a future taxi fare review and be reflected in regulated fares.

3.4 In the short term, the Government should introduce a limited purpose-built vehicle subsidy (for example, providing for up to 50 permit holders to access a subsidy of $20,000 per vehicle for purchase of a purpose-built taxi) to encourage the uptake of these vehicles and to assist in determining the costs of converting all or a larger part of the taxi fleet to these vehicles in the longer term.

3.5 Existing vehicle standards should be amended to allow purpose-built vehicles to have an age limit of 10 years, with extensions beyond this time being made subject to six-monthly inspections.

3.6 Age limits for other taxi vehicles and luxury PBO vehicles should remain unchanged at this time (subject to the Taxi Services Commission undertaking further research on the impact of age on vehicle safety, as per Recommendation 6.2). These age limits should be applied to PBO vehicles that do not meet the luxury vehicle tax threshold:

- Maximum vehicle age: 6.5 years
- Maximum vehicle age for entry into the taxi and non-luxury PBO fleet: 2.5 years.

3.7 Vehicle standards should set requirements for:

- Distinctive markings and features (enabling easy identification of the vehicle as a taxi, PBO cab, Stretched Vehicle or Registered Hire vehicle), such as windshield stickers and/or distinctive licence plates, and require all vehicles to maintain a professional image
- Larger, clearer displays of customer information inside the vehicle as appropriate, such as (in relation to taxis) information about fares, advising that safety cameras are in operation and how to make a complaint.

3.8 Standards for taximeters should set the following requirements:

- Taximeters should include all components of the fare, including tolls
- Taximeters should have the functionality to voice transmit all components of the fare to customers
- Taximeters should be required to be accurate. Meters should be pattern tested, installed and verified by expert independent service providers in accordance with international and national standards
- Taximeters should be regulated by the National Measurement Institute under the Australian National Measurement Act 1960, after appropriate protocols with the Taxi Services Commission have been determined.

3.9 All trip and fare data should be transmitted directly on a continuous basis from the vehicle to the Taxi Services Commission.

3.10 Permit holders should be permitted to have advertising on and/or in their taxi and/or hire car vehicles, subject to rules set by the Taxi Services Commission in relation to size, placement, subject matter and other requirements.

3.11 The regulation covering dome lights should be outcomes-focused and include automation of signalling linkages from taximeters to the dome light to show clearly the status of the taxi (whether hired, available or not available). Authorised Taxi Organisations should be permitted to adopt their own dome light design consistent with the new regulation.

3.12 Regulation requiring taxis operating in the Urban, Regional and Country zones to have yellow livery (whether affiliated with an Authorised Taxi Organisation or independent) should be removed. Urban, Regional and Country zone taxis should be permitted to adopt their own liveries, subject to meeting requirements that they maintain a professional image and on approval by the Taxi Services Commission. The Commission should assess the case for removing the requirement for yellow livery in the Metropolitan zone if this emerges as an obstacle to competition.

3.13 Victoria should seek the support of other Australian jurisdictions for a more cooperative national approach to vehicle standards. In particular, the Victorian Government should actively pursue:

- Greater consistency in vehicle regulations to assist manufacturers and importers in supplying more appropriate vehicles to the Australian taxi market as a whole (particularly in relation to purpose-built taxis and wheelchair accessible vehicles)
- Enhancing the role of the National Measurement Institute in regulating taximeters Australia-wide and working with jurisdictional taxi regulators to set appropriate national standards for meters.

6 More networks and more choices for taxi businesses

6.1 Inquiry's views in Draft Report

The Draft Report examined in detail the significant role played by the more than 90 Primary Network Service Providers (NSPs) across Victoria.

The inquiry noted that, in country Victoria, most taxi trips are booked through a local NSP – often a small to mid-sized cooperative type organisation that provides and coordinates taxi services for a zoned area. In smaller towns, it is not uncommon to find one person owning a licence, carrying out the NSP role by handling bookings and also driving and operating the taxi as a small business.

In Melbourne, most of the smaller cooperative networks have been aggregated over time into two large networks that service the metropolitan area. These large NSPs handle consumer bookings from fixed call centres that are staffed around the clock. In addition to taking bookings and monitoring vehicles in-service, NSPs are involved in other industry activities, including the management of licences and leases of taxi plates, cash handling, disbursement of electronic payments to operators, managing account customers, training drivers and providing and fitting taxi-specific equipment to vehicles.

The inquiry identified several significant concerns with the operation of the large metropolitan NSPs, including:

- While NSPs can regulate their affiliated operators and drivers in various ways, they are not doing enough to ensure their operators and drivers provide good quality services for customers.
- NSP booking services are the subject of widespread consumer dissatisfaction, including concerns about unreliable services (with long wait times or taxis simply not turning up at all), a lack of accountability for services (with NSPs seen as unwilling to advise customers where their booked taxi is or how long it may take to arrive) and difficulties in contacting booking services during busy periods.
- High barriers to entry in becoming a new NSP prevent new competitors from emerging and give incumbent NSPs significant market power.
- There is considerable dissatisfaction amongst taxi operators with the affiliation fees charged by NSPs. These fees vary widely across Victoria, ranging from $7,000 per year in Melbourne up to $14,000 per year in regional areas. These fees appear to have increased whenever fares have increased.
- Many operators are dissatisfied with the service they receive from NSPs and feel they derive limited direct benefits from their NSP affiliation.

Using industry data, the inquiry found that only 30 per cent of all metropolitan trips are booked, implying that the Melbourne NSPs are not involved in about 70 per cent of the work done by city-based taxis. The common industry view prior to this work by the inquiry was that around 50 per cent of metropolitan jobs were booked through the NSPs.

The inquiry found high levels of satisfaction with the performance of secondary networks.[1] Many regular taxi users told the inquiry they 'bypass' the large NSPs in favour of these networks, with the reported benefits including knowing which driver is coming and when; having access to regular and trusted drivers; and being able to negotiate fare 'deals'. The inquiry heard that passengers with wheelchairs have largely abandoned the primary NSPs in favour of direct communication with preferred drivers due to concerns about poor service and the inability of the NSPs to guarantee a reasonable wait time.[2]

The Draft Report also discussed concerns with vertical integration and other vertical relationships in the taxi industry – in particular, links between Cabcharge and one of the major metropolitan NSPs. The influence of NSPs over in-

1 Secondary networks are less formal taxi networks whose members pass bookings amongst themselves, typically by mobile phone or pager. Members of secondary networks must also have an affiliation with a primary NSP.

2 Accessibility of taxi and hire car services is discussed in greater detail in chapter 10.

vehicle equipment supply was discussed (as the major metropolitan NSPs have subsidiary businesses that specialise in vehicle fit outs and the provision of in-vehicle equipment) and the inquiry noted the 2010 decision of the Federal Court that resulted in the highest ever penalty for misuse of market power being imposed on Cabcharge.

The inquiry observed that major reform to regulation covering NSPs is required to introduce more competition to the market for taxi booking services, improve NSP performance and accountability, and give taxi operators greater bargaining power to obtain better value for money. The inquiry concluded that the requirement for operators to affiliate with an NSP is anti-competitive and inefficient, particularly given the industry's current structure. The affiliation requirement now appears to be justified largely by the ability of NSPs to track vehicles and thus provide some assurance of safety to drivers. The inquiry concluded that, in the absence of mandatory network affiliation, there are other ways for operators to achieve safety outcomes.

The inquiry noted that considerable confusion exists amongst customers, industry participants and the regulator about the role of NSPs in ensuring appropriate standards of service and safety. In this regard, industry accreditation appears to have failed, imposing costs and restrictions on NSPs with little demonstrable improvement in service quality. This failure further strengthens the argument for industry self-regulation.

Under the inquiry's proposed reforms, NSPs – referred to as Authorised Taxi Organisations (ATOs) – would have clear legal responsibility for services provided under their brands and be required to adopt measures to ensure appropriate performance standards are maintained. While the TSC would monitor and support ATOs in this endeavour, its primary regulatory focus would be on safety. The inquiry considered that its package of reforms would lead to stronger competitive pressures working in conjunction with targeted self-regulation to drive improvements in ATO services.[3]

Draft recommendations

The inquiry made six draft recommendations aimed at creating a more competitive environment around network services, while protecting driver safety. These recommendations are supported by others that move the industry towards self-regulation (see chapter 9).

- All taxi permit holders, regardless of whether or not they are affiliated to an Authorised Taxi Organisation, must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.
- Persons permitted to provide taxi and/or Pre-Booked Only cab services should be able to choose to operate independently or affiliate with one or more approved Authorised Taxi Organisations. Regardless of this decision, all permit holders should retain responsibility directly to consumers for the services they provide.
- Entry requirements and approval for Authorised Taxi Organisations should be minimal to reduce the regulatory burden and compliance costs on these organisations and encourage new entrants and competitors to existing networks. Approval criteria for Authorised Taxi Organisations should centre on:
    - A minimum fleet size of 20 vehicles and capacity to provide 24/7 service (with the Taxi Services Commission having the discretion to approve lower Authorised Taxi Organisation fleet numbers in urban, regional and country zones)
    - Identification of the responsible person or persons of the Authorised Taxi Organisation, with each person having to satisfy requirements of a character check, national police check and proof of identity
    - Capacity to adhere to operating rules setting out minimum service and other requirements (see chapter 9).
- Existing taxi licence conditions that require the licensed taxi vehicle to be operated under control of an approved depot physically located in their specified zone should be removed.
- Authorised Taxi Organisations should be required to provide regular reports on service performance as requested by the Taxi Services Commission.

3 The inquiry's proposals for greater responsibility or service performance are discussed in chapter 9.

- The Taxi Services Commission should publish details of service performance in a way that is widely accessible in order to assist consumers in making informed decisions.

6.2 Issues raised in submissions

Responses to the Draft Report's recommendations relating to networks came mainly from industry participants concerned about the impact of these reforms on their businesses. Generally, non-industry respondents were silent on these issues, while being supportive of moves to improve the reliability of taxi booking services.

6.2.1 Mandatory NSP affiliation

The inquiry's proposals for ending mandatory NSP affiliation, relaxing entry requirements for new ATOs and removing licence conditions that bind taxi operators to depots located in particular zones attracted a mixed response. Around 60 per cent of online submissions either supported or were neutral about these proposals; around 40 per cent were opposed. The strongest opposition came from current NSPs, while the strongest support came from taxi operators.

The VTA strongly opposed the removal of mandatory affiliation on the basis that "the booking characteristics of Melbourne taxi users, along with safety issues for both passengers and drivers, make it vital in the Victorian context".[4] The VTA disputed that there is widespread consumer dissatisfaction with taxi booking services, arguing that "there is a gap between the evidence of customer satisfaction regarding taxi booking companies and many of the views posited by the [inquiry]".[5] The VTA cited research conducted on its behalf that shows 79 per cent of Victorians believe it is easier to book a taxi with only two main phone numbers. The VTA also noted that the primary NSPs have provided the technological investment necessary for the regulator to access reliable and high quality real-time data.

While acknowledging the 'boom' in taxi booking technology, the VTA cautioned that:

> *There remains a lot of uncertainty relating to the adequacy of the technology, the implications of its adoption for driver and customer safety and the demographics of those able to access and utilise the technology. The VTA is of the view that this technology, and the market for it, should be allowed to develop properly before anyone assumes it can do the job of the PNSP.*[6]

The VTA recommended reviewing the need for mandatory affiliation in five years once a 'better picture' has emerged in relation to new booking technologies and their impact.

Black Cabs Combined (13CABS) had no objection to greater competition through new NSPs entering the market, but considered that allowing taxis to operate independently of an NSP will undermine safety and service standards. Black Cabs Combined considered that the Taxi Services Commission (TSC) and Victoria Police will find it almost impossible to track down non-affiliated taxis involved in accidents or incidents and passengers will find it very difficult to identify the particular taxi in which they were travelling without a network association.

Many NSPs in regional Victoria opposed the removal of mandatory affiliation. A number expressed doubts about the practicality of having more networks in smaller country markets that are largely booked services. Submissions from smaller country NSPs differed markedly from the large metropolitan NSPs, with most voicing feelings of vulnerability to competition in their current markets. Some were concerned that independent permit holders with potentially lower overheads and reduced regulatory obligations will 'cherry pick' work at the most lucrative times and places. Others believed that it will make it impossible to plan for adequate coverage within an area, making services unreliable. These NSPs are mostly small businesses where a few people juggle multiple roles to sustain the delivery of taxi services in local communities.

The main concerns raised by individual operators who opposed the recommendations were that independent drivers will be harder to hold accountable for service quality; that affiliation is necessary for driver safety; that consumers will be confused by multiple brands; and that the NSPs play a critical role in monitoring drivers and operators and

4 VTA submission L179, p. 17
5 Ibid, p. 17
6 Ibid, p. 18

preventing 'rogues' from entering the industry. There were also concerns that the TSC will 'lose control' of the industry if it has to monitor more small NSPs.

In contrast to the VTA, TISV generally welcomed the opportunity for competition in the provision of network services and supported the inquiry's recommendations, with a caveat on allowing the affiliation of Pre-Booked Only (PBO) cabs to the proposed new ATOs.

TISV observed that "if the [inquiry's] findings are accurate, the report card for the large metropolitan NSPs is anything but complimentary".[7] TISV was particularly concerned about the inquiry's discovery that the two largest NSPs in metropolitan Melbourne only deal with 30 per cent of total trips (in contrast to the general industry belief that 50 per cent of all trips are pre-booked). Along with a number of operators, TISV was also concerned about the revelation that around 25 per cent of calls to NSPs go unanswered. These findings by the inquiry appear to have reinforced the belief of many taxi operators that they are not receiving value for money from their NSP affiliation and are effectively being forced into a commercial arrangement they neither want nor need.

TISV argued that operators should be able to associate with multiple NSPs to increase their opportunities to secure pre-bookings, stating that "this approach is more likely to deliver the personalised, customer friendly service the public is asking for".[8]

A very small minority of regionally based NSPs supported the removal of mandatory affiliation. Some of these reported bad experiences with larger NSPs and argued that allowing one NSP to have a monopoly in a particular town or area imposes high costs and leads to low demand areas being poorly serviced (with the examples advanced including the Bellarine Peninsula and Shepparton).[9] Individual operators supporting the removal of mandatory affiliation believed it is unfair to force them into a relationship with an NSP; that high NSP fees do not represent value for the services provided; and that they should be free to choose commercial arrangements that best suit their businesses.[10]

Dr Peter Abelson from Sydney University's School of Economics agreed with the inquiry's observation that mandatory affiliation is no longer necessary:

> *It is anti-competitive, costly to operators and has not achieved demonstrable benefits. In effect, the taxi networks have enjoyed regulatory protection from competition and been able to require operators to purchase various services through them. This has doubtless increased the income and profits of the networks…It is hard to see why any business should expect to receive permanent protection especially when there is no social case for it and there are clear gains from deregulation…the freeing of operators and drivers from network controls will enable operators and drivers to develop their own businesses and goodwill. This is fundamental to both service quality and to potential driver income."*[11]

6.2.2 Requirements for GPS tracking, safety monitoring and emergency response

There was widespread support for the adoption of outcomes-based regulations requiring GPS tracking, safety monitoring and emergency response capability. However, the VTA and current NSPs challenged the proposition that such services could be provided by means other than through primary NSPs.

The VTA commented that "allowing security functions to be outsourced will only add another layer of cost to the operator and/or the driver and, therefore, ultimately the customer".[12] Smaller country NSPs were also concerned about the costs of implementing this recommendation, stating they do not have sufficient economies of scale to support these capabilities (which, in any event, are largely unnecessary outside Melbourne and large regional cities).

7 TISV submission E347, p. 28

8 Ibid, p. 28

9 Bellarine Peninsula Taxis submission L158, p.1 and see ACCC White Top Taxis ruling, accessed 27/8/2012 at http://www.accc.gov.au/content/index.phtml/itemId/861095/fromItemId/142

10 Approximately 45 per cent of online submissions supported recommendation 5.2 to remove mandatory affiliation

11 Dr Peter Abelson submission E182, p. 3

12 VTA submission L179, p. 17

6.2.3 Removal of requirement for taxis to operate under control of depots located in their specified zones

Most submissions opposed to this recommendation were also opposed to changes in zoning. These operators argued that the current requirement ensures drivers have good local knowledge and understand local needs; prevents drivers from coming into high demand areas and 'poaching' work; and ensures a 'fair share' of work can be allocated within a given zone or local area.

6.3 Inquiry's response to submissions

As noted throughout this report, the inquiry considers that major reform is needed to the regulatory framework covering taxis and hire cars. This includes removing regulatory impediments to greater competition in the provision of booking services, lowering barriers to entry into other markets currently dominated by large NSPs, removing or minimising unnecessary and costly accreditation requirements, and removing the obligation for taxi operators to affiliate with an NSP.

The inquiry does not consider the arguments advanced in favour of retaining mandatory affiliation are sufficiently strong to override the potential benefits from removing this restriction. It is clear that mandatory affiliation is costly to taxi operators and restricts their ability to choose for themselves the services and/or equipment they need to meet regulatory requirements. The significant market power of the large NSPs not only restricts entry into the booking services market; the inquiry has heard from firms supplying equipment and services to the taxi industry that this market power has constrained entry into these markets as well. As set out in the Draft Report, the inquiry found that the practices employed by NSPs to monitor and respond to in-cab duress alarms are less than optimal and that there is no compelling argument for not allowing other providers – such as security companies – to enter this market, as long as they satisfy the outcomes identified in regulation.

The inquiry does not agree with the arguments advanced by the VTA and others about the need to allow new booking technologies to develop 'properly' before removing mandatory NSP affiliation. The next few years are precisely the time during which greater competition in the booking market is most likely to result in the development of innovative products and services. Maintaining mandatory affiliation for the next five or more years will stifle this innovation and enable the large NSPs to further entrench their market dominance using these technologies.

The inquiry strongly disagrees with the VTA's assertion that there is a gap between the evidence of customer satisfaction with booking services and the views advanced by the inquiry. In the Draft Report, the inquiry reported the result of commissioned research indicating dissatisfaction with these services, along with many comments made in submissions and during consultations about specific problems with taxi booking companies. The inquiry also notes the evidence provided by Silvertop's representatives during the inquiry's hearings that it prefers customers to receive an engaged signal during busy periods rather than be told no taxi is available. This appears to reinforce one of the most common complaints raised with the inquiry by taxi users.

The inquiry also notes that the overall satisfaction rating for booking services in the survey cited by the VTA masks very low satisfaction with key elements of the service. These matters are discussed at length in the Draft Report.

6.4 Final recommendations

4.1 Persons permitted to provide taxi and/or Pre-Booked Only services should be able to choose to operate independently or affiliate with one or more approved Authorised Taxi Organisations. Regardless of this decision, all permit holders should retain responsibility directly to consumers for the services they provide and must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.

4.2 Entry requirements and approval for Authorised Taxi Organisations should be minimal to reduce the regulatory burden and compliance costs on these organisations and encourage new entrants and competitors to existing networks. Approval criteria for Authorised Taxi Organisations should centre on:

- A minimum fleet size (of around 20 vehicles in the Metropolitan Melbourne zone with discretion to approve a lower number in Urban, Regional and Country zones) and capacity to provide 24/7 service
- Identification of the responsible person or persons of the Authorised Taxi Organisation, and each person satisfying requirements of a character check (includes national police check and proof of identity)
- Capacity to adhere to operating rules setting out minimum service and other requirements (see Recommendation 8.7).

4.3 The requirement for a licensed taxi vehicle to be operated under control of an approved depot *physically located in their specified zone s*hould be removed.

4.4 Authorised Taxi Organisations should be required to provide regular reports on service performance as requested by the Taxi Services Commission. The Commission should publish details of service performance in a way that is widely accessible in order to assist consumers in making informed decisions.

PART B – RESTORING CONSUMER TRUST

7 Better quality drivers

7.1 Inquiry's views in Draft Report

In its Draft Report, the inquiry emphasised that improving driver quality must be a top priority for the taxi industry. Noting that concerns about driver quality emerged repeatedly in submissions and consultations, research, media stories, formal complaints and regular customer satisfaction monitoring, the inquiry found that driver quality is critical to a positive taxi or hire car experience. This was also reflected by many consumers indicating they are prepared to pay a premium for a good driver or are willing to endure some inconvenience to acquire the services of a 'regular' trusted driver (or group of drivers).

Overall, the inquiry found that satisfaction with taxi drivers in Victoria is low. Many concerns were raised about a decline in driver quality, knowledge and standards of behavior. These findings were supported by research commissioned by the inquiry into consumer attitudes (conducted by Ipsos Social Research Institute) and sources of consumer detriment (conducted by Latitude Insights).[1] The inquiry concluded that improving driver quality is critical to improving taxi services and increasing demand for these services.

The inquiry's draft recommendations proposed a multi-pronged approach to improve driver quality that covered driver entry and training, experience, remuneration and other terms and conditions of driver engagement.

The inquiry considered that, while improving training is important, finding a way to improve the remuneration, status and working conditions of taxi drivers must be a core element in any reforms. Experience overseas has shown that moves to open up taxi markets have not been sufficient, in themselves, to improve the quality of drivers. While the inquiry's reform package did not propose the complete removal of restrictions on entry, it did propose a relaxation of these restrictions. In the absence of a clear strategy to improve driver remuneration, there is a risk that there will be no improvement in driver quality. The inquiry viewed such an outcome as unacceptable and contrary to the industry's need to lift demand and occupancy rates to secure its future.

7.1.1 Driver training and experience

The inquiry examined driver training in detail and identified a number of shortcomings in current practices. In particular, the inquiry proposed that all applicants for driver accreditation should have held a Victorian Driver Licence for at least 12 months prior to the issue of accreditation to ensure they have a minimum amount of local driving experience.

The inquiry also found that, while the current training curriculum for taxi drivers is adequate, the relevant Registered Training Organisations (RTOs) have not produced satisfactory results and that training delivered through these RTOs should be subject to greater and more regular scrutiny by training authorities. The inquiry recommended better oversight of the RTOs and the introduction of comprehensive independent testing of metropolitan taxi drivers through a new Knowledge exam.

7.1.2 Driver remuneration and working conditions

The inquiry agreed with observations made by a number of people and groups (mostly from outside the taxi industry) that the industry has not implemented effective strategies to build a quality driver workforce. Rather than taking strong action to improve driver pay and conditions and recruit and retain good drivers, the industry has developed an unhealthy reliance on a continual flow of temporary drivers, with little regard shown for the welfare of these drivers or for the customer service implications of such an approach.

The inquiry reported that driver remuneration is low compared to national minimum wages and that the vast majority of drivers do not receive holiday or sick pay. Existing bailment arrangements have proven to be an unsatisfactory means of engaging taxi drivers and have severely curtailed the industry's ability to improve the pay and conditions of

1 The reports of this research are available on the inquiry's website.

drivers. The Draft Report included a detailed analysis of why relying solely on fare increases to deliver increases in drivers' incomes is wasteful and often ineffective in delivering such increases.

The inquiry noted that its proposed licensing reforms would open up the opportunity for drivers to purchase and operate their own taxi and/or Pre-Booked Only (PBO) businesses. However, for those drivers who do not become licence holders, the inquiry recommended fundamental changes to the basis under which they are engaged. After examining in detail a range of alternative approaches to address driver quality, including the legal, economic and practical considerations involved, the inquiry was convinced of the need to move away from the current bailment arrangements to a fairer system. The inquiry proposed a new mandatory Driver Agreement that must be entered into by all taxi permit holders and drivers. This agreement would replace all existing bailment arrangements and contain minimum terms, conditions, service standards and payment arrangements.

The inquiry recommended a change from the current industry arrangement of 50 per cent of the fare box revenue paid to the driver to a minimum of 60 per cent of the fare box, considering that this struck a reasonable balance between affordability and the interests of drivers – and ultimately passengers. It also sought comment on alternative proposals to establish a minimum hourly rate for driving in peak and non-peak times or allowing drivers and permit holders to choose between either a specified minimum percentage of the fare box revenue or minimum hourly rates when entering into the Driver Agreement.

While noting that lower assignment fees would provide some scope for permit holders to pay higher driver remuneration, the inquiry recognised that further cost and revenue offsets would be needed. Accordingly, the inquiry made a number of recommendations aimed at enhancing the viability of taxi operations, including lowering permit holders' costs and giving them greater choice and flexibility in the services they provide, with the aim of boosting the demand for taxi services and making it possible for the industry to pay drivers more. The inquiry noted that this would lead to 'a virtuous circle': better remuneration would improve driver supply, create more competition for shifts and lead to a higher standard of driver, which would in turn help to build customer confidence and demand and the capacity of permit holders to meet the costs associated with employing better quality drivers.

The inquiry also recommended that, in year five of the reform implementation program, the TSC examine the continuing necessity of the Driver Agreement. If the reform measures have not sufficiently improved driver pay and conditions, the inquiry suggested that the Victorian Government consider the further step of requiring all drivers to be engaged under written employment contracts.

7.1.3 Properly insured taxis

The inquiry also made recommendations relating to insurance. While this initially became an area of investigation because the inquiry received many comments about the difficulty of obtaining taxi insurance and/or the high costs of doing so, it uncovered a number of other issues. In particular, the practices of 'taxi clubs' were drawn to the inquiry's attention, with several disturbing cases reported of taxi drivers and members of the public being disadvantaged by the practices adopted by these organisations.

Issues also arose about the extent to which the industry is covered by the provisions of workers' compensation and OH&S legislation. The inquiry recommended that the relevant legislation in these areas be amended to clarify the status of drivers. The inquiry also recommended requiring permit holders to hold an insurance policy that covers third party damage arising from the use of the permit holder's taxi and requiring a permit holder to indemnify his or her driver/s in relation to any vehicle damage arising out of the use of the permit holder's taxi.

Draft recommendations

The inquiry's draft recommendations aimed to deliver better quality drivers over time and contribute to restoring the community's confidence and trust in the taxi industry.

Driver entry and training

- Taxi and Pre-Booked Only cab driver entry requirements should be adjusted to remove the ability of applicants to undertake an Independent Driving Assessment in lieu of having held a Victorian Driver Licence for 12 months. The requirement should be for all applicants for driver accreditation to have held a Victorian Driver Licence for a minimum 12 month period.

- Audits of all Registered Training Organisations delivering the taxi driver training course in metropolitan Melbourne should be conducted by the training regulators, the Victorian Registrations and Qualifications Authority and the Australian Skills Quality Authority, on a regular basis, facilitated by the Taxi Services Commission to provide specialist expertise.
- Examination of new drivers should be undertaken independently of the Registered Training Organisations. The new independent exam should be known as the 'Greater Melbourne Knowledge' and could be administered directly by the Taxi Services Commission or under contract to a third party.
- The independent exam should be compulsory for all new taxi drivers intending to drive in the Greater Melbourne zone, as the final step required before obtaining accreditation. The examination should assess applicants against the competencies of the taxi driver training course.
- Registered Training Organisations, the Taxi Services Commission and disability advocacy groups should work together to develop materials to enhance the current delivery of disability awareness training (within the Provide Taxi-cab Customer Service unit of the taxi driver training course) to ensure that training remains relevant and that new drivers are provided with exposure to and awareness of the needs of a wide range of customers.
- The requirement for metropolitan drivers to undertake the full taxi driver training course should be replaced with a new requirement that all Greater Melbourne drivers must demonstrate competency against units of the taxi driver training course by successfully passing the independent examination.
- The requirement for any driver intending to drive a wheelchair accessible taxi in any part of the state to complete the stand-alone unit of the taxi driver training course, Provide Wheelchair Accessible Taxi Services to Passengers with Disabilities, and pass an assessment of this unit conducted by an Registered Training Organisation assessor, should be continued.
- The inquiry considers subsidising wheelchair accessible taxi training to be unnecessary given the range of other incentives (for example the lifting fee and higher occupancy fee) in place to ensure there are sufficient numbers of wheelchair accessible taxi drivers. However, in country and regional areas, the subsidy provided to unit assessors should continue, to support the costs of these assessors travelling to test wheelchair accessible taxi driver applicants.
- Taxi driver applicants seeking accreditation to drive in the urban, regional and country zones should continue to have the option (rather than be required) to complete the taxi driver training course with a Registered Training Organisation. Taxi permit holders in these zones should be required to ensure the adequate training of their drivers, either through delivery of their own induction and training programs or by choosing to send drivers to all or part of the taxi driver training course.
- The practice of the industry mentoring new drivers 'on the job', which currently occurs predominantly in country Victoria, should be encouraged providing the industry develops and implements appropriate guidelines for managing in-car training (for example, informing customers of the presence of a second driver who is providing in-car mentoring at the time of booking or when a customer is selecting a taxi from a rank). These guidelines should be approved by the Taxi Services Commission.
- Pre-Booked Only cab permit holders should be required to ensure the adequate training of their drivers via either delivery of their own induction and training program or by choosing to send drivers to all or part of the taxi driver training course (as is the case now for holders of Special Purpose vehicle and Restricted Hire vehicle licences). The mandatory requirement currently in place for metropolitan hire car drivers to undergo the taxi driver training course should be removed and Pre-Booked Only cab drivers should not be required to sit the independent exam.

Driver pay and conditions

- Driver career structure, remuneration and conditions should be improved by making new licences available at affordable prices (giving drivers the opportunity to run their own taxi business, as set out in Recommendations 1.1 to 1.5) and introducing a new mandatory Driver Agreement that provides for more appropriate terms and conditions for drivers (as set out below).
- Bailment agreements should be replaced with a fairer Driver Agreement for drivers who are engaged by permit holders to drive their vehicles. New legislation should be passed to require all permit holders to engage taxi drivers under the new Driver Agreement (unless the drivers are otherwise engaged as employees).

- The Driver Agreement should provide a better revenue sharing arrangement for drivers by establishing a minimum percentage of 60 per cent of the fare box revenue to be provided to the driver.
- Provisions that should be included in the new Driver Agreement include:
  - The driver must be paid a share of the fare box of no less than 60 per cent
  - The driver must be allowed to take up to four weeks unpaid leave where she/he has worked regularly for 12 months or more for the permit holder
  - The permit holder must maintain a third party property insurance policy. The driver must be indemnified by the permit holder for any vehicle damage, but if an excess is charged to the permit holder and the driver is at fault, the driver may be required to pay the excess
  - The service standards with which the driver must comply
  - The costs (e.g. LPG) that must be paid for by each party
  - The basis on which either party may end the agreement
  - Dispute resolution mechanisms including a role for the Victorian Small Business Commissioner and the Victorian Civil and Administrative Tribunal.
- The inquiry also seeks feedback on a further two possible options to establish a 'safety net' income within the Driver Agreement:
  - Introduce a minimum hourly rate for peak and non-peak hours of work. Peak time should be limited to 10pm Fridays to 5am Saturdays, and 10pm Saturdays to 5am Sundays, and all other times should be designated non-peak hours. Under this option the rate will be set at $28 per hour for peak hours and $16 per hour for non-peak hours. This arrangement does not preclude an alternative revenue share arrangement, so long as this results in earnings of no less than the minimum hourly rates.
  - Allow permit holders and drivers to choose between either the minimum hourly rate for peak and non-peak hours of work, or the minimum percentage of the fare box revenue to the driver, when they enter into the Driver Agreement.
- The Victorian Government should amend the Accident Compensation Act 1985 to make clear that a taxi driver engaged under a Driver Agreement is deemed to be a worker for the purposes of the Act and the Accident Compensation (Workcover Insurance) Act 1993. WorkSafe Victoria, together with the Taxi Services Commission, should implement strategies to better inform industry participants about their rights and obligations under these Acts.
- The Victorian Government should amend the Occupational Health and Safety Act 2004 to ensure that taxi drivers are owed a general duty of care by any person that has engaged them in their business.
- Consumer Affairs Victoria should ensure that taxi clubs comply with the provisions of the Associations Incorporation Act 1981, when they are registered under the Act. Consumer Affairs Victoria should liaise with the Taxi Services Commission in relation to the regulation of taxi clubs under the Act and other general consumer legislation.
- Disputes between drivers (or representatives acting on behalf of drivers) and permit holders in relation to a Driver Agreement should in the first instance be dealt with by the Office of the Victorian Small Business Commissioner. Disputes could be referred to Victorian Civil and Administrative Tribunal for determination if they cannot be resolved by the Victorian Small Business Commissioner.
- The Taxi Services Commission, at its discretion, should be able to bring proceedings before the Victorian Civil and Administrative Tribunal or a court to enforce the terms of a Driver Agreement.
- The Taxi Services Commission should undertake a review in year five of the reform implementation program to examine the continuing necessity of the Driver Agreement. The review should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with employment arrangements, as well as growth in numbers of owner-drivers and other indicators of industry retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

Properly insured taxis

- Legislation should be drafted and enacted to require a permit holder to have a policy of insurance covering third party damage arising out of the use of the permit holder's taxi. The policy should:
  - Be issued by a corporation authorised under the *Insurance Act 1973 (Cth)* to carry on an insurance business
  - Provide sufficient cover in the opinion of the Taxi Services Commission.
- Legislation should be drafted and enacted to require a permit holder to indemnify his or her driver/s in relation to any vehicle damage arising out of the use of the permit holder's taxi. But if an excess is charged to the permit holder and the driver is at fault, the driver may be required to pay the excess.

7.2 Issues raised in submissions

While there was considerable support for the notion that driver quality should be improved, there were mixed views about how best to achieve this. Many in the industry welcomed improvements in driver training, but were less supportive of measures aimed at increasing driver remuneration. Outside the industry, a number of submissions expressed disappointment that the inquiry chose not to recommend drivers becoming employees, seeing this as the only certain path to improving drivers' incomes and working conditions.

7.2.1 Driver training and experience

Nearly all submissions that commented on the inquiry's driver training proposals were supportive. A large proportion of licence holders who responded considered that driver training is the only major reform that should be pursued. Most of these licence holders believed that, if driver training is addressed, very little else needs to be done.

There was general agreement that an independent exam – and, in particular, testing for greater local knowledge – would lift driver quality. A number of submissions sought clarity and greater detail about how the new independent exam might work. Some suggested moving away from existing RTOs to alternative training providers, such as TAFE institutes, or making training modules available online. There were also suggestions to make the training more flexible, including allowing drivers to choose the modules they felt they needed to undertake to gain the required competencies.

While there was strong endorsement of the requirement for driver applicants to have held a Victorian Driver Licence for 12 months, a number of industry respondents – including the VTA and TISV – felt the period was too long in light of the proposed introduction of the independent exam. Others commented that the different training requirements for country taxi drivers and PBO drivers should not be retained.

There was general agreement on the inquiry's recommendations for improvements to training related to providing services to customers with a disability. However, VCOSS felt these recommendations should go further:

> *While we support the thrust of this recommendation, we would extend it to include that people with disabilities should be involved not only in designing training materials but also in delivering the training itself. Further, given that concern about the extent of disability awareness among current drivers, there should be provision for ongoing training and assessment of drivers, not merely the instruction of new entrants. Finally, disability awareness is only one component of understanding the service needs of diverse groups in the community, and awareness training should also encompass the needs of others in the community, including seniors, multicultural communities and children.*[2]

Taxi users with a disability provided the inquiry with feedback on specific competencies and skills where improvements are needed to lift service standards. These users and their advocates noted that disability awareness levels should be strengthened among conventional (non-WAT) taxi drivers, as many people with a disability use conventional taxis, including people with vision and hearing impairments, frail elderly people, deaf-blind users and people with ambulant disabilities.

2 VCOSS submission E494, pp. 10-11

Opinion was divided on the need to continue the subsidy for WAT training in metropolitan Melbourne. Generally, taxi industry participants wanted to retain the subsidy, while customers with a disability and their representatives agreed that the subsidy is unnecessary given the number of incentives to provide a WAT service.

There was also a mixed response to the inquiry's proposal to allow for mentoring of new drivers. Many felt this would reduce a driver's ability to take passengers, as one seat will be taken up with the mentor; others saw merit in the idea. Some operators and NSPs advised that they already provided this type on training in-house. For example, Frankston Taxis reported using 'in car training' as part of its driver training program as a way of "giving the trainees a real life environment of dealing with clients, on-road conditions etc".[3]

7.2.2 Driver remuneration and working conditions

While the inquiry received a large number of submissions and comments supporting its proposals to increase the remuneration of drivers, many industry respondents were very strongly opposed to such a move, arguing that it would be beyond the current capacity of the industry to afford and would force many operators out of business.

Those objecting to the proposed move to a 60/40 revenue split generally cited affordability as their main concern, although there were also comments from several operators that drivers are 'happy' with the current 50/50 split. For example, one anonymous operator reported having had "no negative feedback from drivers regarding their bailment terms and conditions".[4]

Many of those opposed to these recommendations claimed that the resultant drop in operator revenue would equate to a 20 per cent loss (from 50 per cent of takings to 40 per cent), making many businesses unviable. The alternative proposal for fixed hourly rates for peak and off-peak times was seen by some industry participants to be even more unattainable than changing the fare box split.

> *To start with the rates are way too high. What is left for the permit holder? There are no incentives for the driver to chase work. A driver agreement maybe 60/40 to the driver with a 50/50 split on fuel would be better and fairer for all.*[5]

Others commented that this recommendation will lead to operators driving more often, 'taking work away from drivers':

> *If owners were forced to pay these sort of hourly rates they would either drive themselves or leave it off the road.*[6]

> *If this comes in, my taxi will have 1 driver, Me.*[7]

Some submissions questioned whether the 60/40 split could be enforced and whether a mandatory Driver Agreement backed by a dispute resolution process would work.

In contrast, others considered that improving driver remuneration is critical. For example, the Australian Taxi Drivers Association wanted the inquiry to push further for employment status for drivers and for paid leave and superannuation for full time drivers.

The Federation of Community Legal Centres suggested that the TSC should be charged with monitoring the welfare of drivers and upholding their legal rights. In a report attached to its submission, the Federation noted:

> *The use of bailment in the industry leads to widespread uncertainty as to taxi drivers' rights and entitlements. …. Some taxi operators take advantage of this uncertainty in order to deprive drivers of their legislated right to WorkCover insurance. The lack of job security afforded by bailment agreements means that, even when*

3 Frankston Radio Cabs submission L119, p. 11
4 Anonymous submission E467, p. 24
5 Greg Kyritsis submission 1317, p. 8
6 Anonymous submission 865, p. 7
7 Patrick Holahan submission 1191, p. 7

drivers understand their entitlements, they are unlikely to pursue them for fear that operators will give 'their' shifts to other drivers.[8]

On the matter of coverage of drivers by workers compensation, accident compensation and OH&S legislation, a small number of operators argued that the inquiry's recommendations were not necessary as drivers are not employees. Mostly, these operators considered that as drivers are bailees, they should be responsible for their own occupational health and safety and insurance. However, there appears to be widespread confusion within the industry about driver and operator rights and responsibilities in relation to these matters.

WorkSafe told the inquiry that it has worked with the VTD to help industry participants to understand their rights and obligations. It noted that drivers employed as bailees are entitled to accident compensation insurance, which should be provided by the person or business supplying the taxi. WorkSafe supported the draft recommendations that aim to clarify this position in both the Driver Agreement and in legislation.

The issue of OH&S coverage in terms of its treatment of bailee arrangements was not seen as straightforward.

WorkSafe noted that the Victorian Government has indicated that Victoria will not adopt the national model of workplace health and safety laws in their current form. The Government still supports the principle of national harmonisation of health and safety laws (and will continue to work towards best practice legislation) and WorkSafe continues to enforce Victoria's existing OH&S laws.

WorkSafe told the inquiry that it believes bailee drivers are covered by Victorian OH&S legislation. However, it acknowledges that there is some uncertainty about the application of the general duties under the OH&S Act to bailment arrangements. WorkSafe stated that the key issue is not whether there is a gap in the coverage of taxi drivers for OHS purposes, but rather whether the various safety duties apply in particular situations.

WorkSafe suggested these matters would be better addressed through working with the relevant agencies to clarify how drivers can be protected by existing legislation and through the publication of guidance materials to raise awareness of the OH&S rights and responsibilities of parties in the taxi industry.

VECCI noted that for many businesses, catching a taxi is often a requirement for their employees and that "assurances around the provision of a safe working environment for taxi drivers would also have a positive impact on the safety of passengers".[9]

7.2.3 Properly insured taxis

There was overwhelming support for requiring permit holders to maintain a third party property insurance policy. However, some operators raised the issue that such insurance is unprocurable for them. Others felt that drivers should be liable for the excess payment; otherwise, they will have no incentive to drive safely. Others commented that the current levels of excess applied to the industry – often several thousand dollars – represent an untenably large impost on poorly paid drivers and that there are sufficiently potent discouragements in place to deter driving recklessly (including a tarnished reputation in the industry and having no income while the vehicle is off-road being repaired).

There was some concern that the recommendation did not go far enough and that compulsory insurance should be required also to cover damage to the permit holder's taxi and that drivers should have the right to question repair quotes if they appear unreasonably high.

7.3 Inquiry's response to submissions

While welcoming the strong support for its driver training recommendations, the inquiry disagrees with those industry participants who see this as the only or most significant reform that can be undertaken to boost service performance and quality. The inquiry's work shows that the problems within the industry go much deeper than driver training and that responsibility for a decline in driver quality reflects deeper structural and regulatory weaknesses in the industry.

8 Federation of Community Legal Centres (2012), *In the Driver's Seat*, Melbourne, p. 31
9 VECCI submission L180, p. 3

As noted in the Draft Report, the inquiry considers that the industry's focus on protecting licence holders has been a key factor in its inability to offer attractive conditions for drivers. Industry participants are almost unanimous in telling the inquiry that there is a driver shortage, summed up in TISV's comment:

> *The Taxi Inquiry is well aware that the industry has been facing a shortage of drivers for most of 2011 and 2012. This would account for a good proportion of why some taxis are not on the road.*[10]

This suggests that raising the reward for driving is likely to have two effects: it will bring forth more people wanting to drive a cab (including encouraging some more experienced drivers back into the industry) and it will act to keep more drivers in the industry.

However, many comments to the inquiry appear to see no connection between the driver shortage, the pay and conditions offered to drivers and the increase over time in the cost of assigning licences. While recognising that other issues also need to be addressed – most notably driver safety – the inquiry's view is that fundamental reform is required to encourage the industry to be much more pro-active in finding ways to improve driver remuneration and conditions. As noted above, restoring consumer trust by engaging better-quality drivers will also help to boost low occupancy rates – a matter also repeatedly drawn to the inquiry's attention as an argument against increasing the supply of taxis.

The inquiry acknowledges the industry's concerns about operator viability. Any package of reforms must be sustainable for both operators and drivers. However, the inquiry has been surprised at the vehemence of opposition in some parts of the industry to its proposals to boost driver remuneration and, in particular, the relatively high level of opposition within the industry to improving driver working conditions. Many submissions opposed to these measures offer no alternatives other than to continue with a 'business as usual' approach – an attitude the inquiry views as likely to be highly counterproductive to the industry's long term survival.

7.3.1 Driver training and experience

The inquiry remains of the view that requiring drivers to have held a Victorian Driver Licence for a specified period is appropriate because it will aid drivers' understanding of the local environment, driving conditions and cultural norms. However, in light of concerns raised with the inquiry and to further clarify the intent behind this recommendation, the inquiry has modified its recommendation to require all applicants for driver accreditation to have held a Victorian Driver Licence for a minimum six month period (with an equivalent interstate or New Zealand licence held for six months also meeting this requirement). Further, the recommendation clarifies that the six month restriction relates to a full licence, not a probationary licence.

The inquiry is also modifying its recommendations to require all new drivers intending to drive in the Metropolitan and Urban zones to take the independent Knowledge exam as the final step before obtaining driver accreditation.

As noted above, some submissions indicated confusion about the practical implications of the training and testing recommendations. The inquiry's proposals do not require all applicants to undertake a formal training program or specific training modules prior to sitting the Knowledge exam. If applicants believe they already have sufficient knowledge and experience to pass the exam, they are free to take the test. However, in many cases, drivers may find it prudent or helpful to undertake some training prior to taking the test. Accordingly, the inquiry considers that training organisations should be encouraged to provide a range of training options for potential drivers.

The one exception in relation to required training relates to the drivers of WAT vehicles and other vehicles able to carry passengers in wheelchairs. The existing obligation of WAT drivers to undertake specific WAT training will be retained for these drivers.

More broadly, disability awareness, knowledge and skills will be tested as part of the Knowledge exam. The inquiry recommends that this assessment – and the content of disability awareness training – be developed in conjunction with disability advocacy groups and taxi users. As noted above, applicants can make their own decisions about whether they require training to pass this aspect of the exam.

10 TISV submission E347, p. 12

Clearly, the new independent Knowledge exam must be sufficiently rigorous to ensure that drivers enter the industry with a broad range of proficiencies (including local knowledge, English literacy, disability awareness and general customer service) and to give customers confidence that any driver passing this test will provide a high standard of service. At the same time, the exam should not be so difficult that it discourages entrants or unduly restricts the supply of drivers.

Questions have also arisen around how the exam will be implemented. While there seems to be a presumption that it will be a 'pen and paper' test, this is not necessarily the case. Such a test may unduly diminish the chances of success for some candidates who may struggle with written exams, but be excellent candidates for driver accreditation. In addition, some requirements – such as understanding local conditions and local geography – could be tested a number of ways. The exam could also be made up of several tests or tasks, administered in different ways. The inquiry considers that settling the detail of these matters is appropriately the task of the TSC, working with the RTOs and the industry (including drivers).

Irrespective of how the exam is implemented, the inquiry's intent is that it is should be independent of the RTOs and the taxi industry. The inquiry also considers that in a more open and competitive industry, network-affiliated RTOs will have a greater incentive to produce quality drivers and that current concerns about the close ties between NSPs and RTOs and the quality of instruction and testing will dissipate.

The Victorian Equal Opportunity and Human Rights Commission noted that all drivers, not just new drivers, should be proficient in dealing with customers with a disability. While there was some discussion in submissions about the application of the new Knowledge exam to current drivers – with arguments presented for and against – the inquiry considers that only more recently accredited drivers should be independently tested in respect of their proficiencies. The inquiry is recommending that from July 2014, all Metropolitan and Urban zone taxi drivers of less than five years standing who are seeking to renew their driver accreditation should be required to pass (or have already passed) the Knowledge exam before their accreditation renewal is issued.

The inquiry considers that a reformed taxi industry will face a different set of incentives as it moves from a regulated and protected industry to a more open and competitive one. Alongside regulatory responsibilities to provide acceptable levels of service, there will be a commercial imperative to raise the level of customer service and, by implication, driver standards. The inquiry understands that some networks currently award titles of merit to drivers who reach certain high standards, such as 13CABS' First Choice Drivers. In the post-reform industry, the inquiry sees no reason why ATOs would not encourage drivers to undertake further qualifications – possibly at certificate 3 or 4 level – so that the ATOs can build their brands and reputations as high quality service providers.

The inquiry's reasoning behind the differential treatment of drivers working for a PBO or in a country taxi was in large part determined by the rationale for regulation in general. As discussed in chapter 7 of the Draft Report, there is no compelling argument for regulation in markets that are contestable. Competition works to ensure that services meet the standards required by customers. In these markets, there may be grounds for regulation if there are 'market failures'. The main market failure identified by the inquiry was information asymmetry. In the pre-booked market (country taxis and PBOs fit this description), customers can know a lot about the service they are booking and can, to some extent, seek alternatives. Knowledge is not so one-sided. In addition, the inquiry recognises that the cost of sending drivers to distant locations for training is an issue for country operators. Accordingly, the inquiry has concluded that there are grounds for differentiating the requirements on drivers for these segments.

7.3.2 Driver remuneration and conditions

As noted already, the inquiry is well aware of the cost pressures on operators and the further pressure that some of its recommendations may impose.

The inquiry's draft proposals included recommendations to give effect to higher payments to drivers, including a reduction in the licence assignment price, facilitating more competition among networks and increasing the bargaining power of operators against networks (which should reduce the costs of affiliation over time), changes to livery requirements, the option to carry advertising and measures to boost demand (including facilitation of shared-ride services).

The inquiry's modelling of the affordability of the proposed reforms in the Draft Report was based on a modest increase in vehicle revenue of just one average fare ($25) per shift and a reduction in costs of $8,000 to $10,000 per vehicle (primarily through reduced assignment fees). Fares were not varied. The inquiry's analysis showed that under these conditions a rise to $17 per hour should be affordable for operators; close to 60 per cent of the fare box.

The inquiry recognised that at some point it may be necessary for fares to rise to meet additional operator costs. However, fares are already inflated due to the effect of assignment values and because the effects of fare rises on revenues are mitigated by a demand effect: when fares go up, demand goes down. Whether this demand effect would itself be mitigated by an improvement in driver quality is uncertain. Therefore, the inquiry remains of the view that higher driver payments should be funded primarily by reducing costs, increasing revenue and increasing utilisation and demand.

Submissions received by the inquiry on the affordability of its proposals took issue with aspects of the inquiry's analysis:

- Profitability is already negative, or marginal, and the proposed savings cannot offset the higher costs
- Some operators pay lower assignment fees and will have lower cost savings to pass through to drivers
- Licence owners who also operate their taxis make no 'savings' from lower assignment prices. This particularly applies in country areas, where fewer licences are assigned, and to those owner-operators who are heavily indebted and rely on operational income to service this debt
- The modelling assumes a modest level of new entry. If there are many more taxis, the proposals will be even less affordable.

The inquiry received information from a number of Melbourne-based taxi operators which suggests that operators are in a precarious financial position, even prior to the introduction of any reforms. The inquiry's position is that the fundamental reforms proposed by the inquiry should be implemented in conjunction with a review of operators' costs, as the reforms will improve the degree to which any fare rise can accrue to passive licence owners as higher licence prices. Increases in fares above those strictly necessary to recover the costs of operation will result in more entry of taxis, rather than higher prices for assignments as has occurred in the past.

TISV commissioned modelling from Deloitte Access Economics that makes a number of points specifically focusing on the incremental effects of the reforms, assuming that the industry is currently in a 'break even' position. In particular, it predicts a deficit for a taxi operator of $10,200 in the first year of the reform, based on a $2,800 fall in revenue (per taxi) and an increase in net costs of $7,400 (based on a reduction in assignment price of $6,500 (from $26,500 to $20,000) and an increase in driver payments of $14,500). Over time, this deficit is predicted to worsen based on the assumption that the number of taxis continues to rise by 5 per cent per year.

The inquiry considers that this modelling is unduly pessimistic as it understates the likely savings to operators (as the average assignment price is around $30,000), and fails to take account of the fact that if it is unprofitable to operate now, then it is very unlikely that new entry will continue as modeled.[11] Nonetheless, it is broadly in line with the inquiry's modeling that suggests it is very important that offsetting cost reductions and revenue increases are achieved to make the overall reform package affordable. Some operators have reached similar conclusions to the inquiry in this respect:

> *The issue to be addressed is increasing demand for the taxi industry, [including] ensuring government utilise existing services rather than supplying grants to fund vehicles for each and every department or community group. Taxis generally are occupied only 30 per cent of the time that they are available, by increasing occupancy rates drivers and operators will [let] both remain viable.*[12]

The inquiry is also aware that the assignment fee can decline to adjust to operator circumstances: if operators cannot make money, then licence holders could accept a lower price. If the proposed revenue split is not affordable, then some operators will tell their licence holders they cannot afford to pay high assignment prices, causing assignment prices to fall over time – and reducing the operator's costs.

11 Also see the inquiry's comments in the Annex to this report.

12 Anonymous submission E466, p.25

In areas outside Melbourne, operators raised similar concerns to operators in Melbourne. These concerns were accentuated by the high numbers of licence owners that also operate their taxis, meaning that there is no cash cost saving that can be used to pay drivers more. The size of the reduction in cost saving, even where it is relevant, is also smaller than in Melbourne as assignment prices are lower.

The inquiry's revised proposal

The inquiry has carefully considered the submissions put to it by industry about the affordability of its current approach, as well as the submissions of licence holders who would be adversely affected by the introduction of new licences at the prices proposed in the Draft Report. The inquiry has also updated its knowledge of industry costs and revised its modelling accordingly.

As set out in chapter 3, the inquiry has modified its original proposals and is recommending an increase in the driver's share of the fare box from 50 per cent to 55 per cent.

The inquiry considers this takes sufficient account of the claims of unaffordability, while still producing fundamental reform that should improve the overall circumstances of both bailee drivers and owner-drivers. This revised proposal, in conjunction with a stricter Knowledge exam, should deliver some increase in driver remuneration and – together with lower licence prices– should improve the career prospects of owner-drivers.

Using the average per taxi values supplied in the Draft Report for metropolitan Melbourne, a reduction in assignment prices to around $20,000 should reduce operator costs by around $7,000 to $10,000 per year. Assuming the operator does not drive, this would be offset by an increase in driver payments by around $7,600 per year.[13] This means that, at worst, the inquiry's proposals to increase revenues and lower costs will only need to generate an improvement of $600 per year on average for operators to be no worse off. If operators' financial positions improve due to the reforms, then some entry could be expected so that the assignment price stays at or close to $20,000 per year.

In Urban and Country zones, the inquiry understands that the proportion of assigned licences is much lower: therefore, there are fewer operators who will have 'cost savings'. However, a higher proportion of operators in these areas also drive: these operators do not face a significant increase in costs. Further, in Country and Regional zones, the affordability of this proposal should be improved by the inquiry's recommendation to reduce controls over the fares that may be set by operators.

Other aspects of the revised bailment agreement

The inquiry considers that the move to a more competitive industry may encourage some operators to engage drivers as employees. However, if drivers are not engaged in this way, the inquiry's recommendation is that they be covered under a Driver Agreement. These agreements will outline clearly the terms of engagement between operators and drivers, including the costs to be incurred by each party. The inquiry has modified its recommendations to address confusion about this particular aspect of the draft recommendations. In particular, the inquiry has clarified that operators should be responsible for fuel and other vehicle-related costs.

The inquiry notes the confusion amongst industry participants about current requirements in relation to workers' compensation and OH&S obligations and considers that these matters should be clarified through a combination of the Driver Agreement and changes to the relevant legislation.

As noted above, WorkSafe's view is that bailee drivers are covered by Victorian OH&S legislation. WorkSafe agrees that this coverage could be strengthened by the move to a Driver Agreement, which would be more akin to a contract of employment. The inquiry encourages WorkSafe and the TSC to work collaboratively to ensure that the Driver Agreement improves the certainty of OH&S coverage for drivers. However, even with a new Driver Agreement, the inquiry is concerned that this is not watertight and will require cases to be brought before the courts to establish the bounds of employer responsibilities.

No awareness campaign has been conducted by WorkSafe and no recent enforcement action has been taken, leaving very limited case law available as guidance. In any event, relying on case law is inefficient and costly and does not guarantee the outcome the inquiry is seeking.

13 The cash outgoings for an operator who also drives will be lower than this.

WorkSafe was concerned that amendments to the OH&S Act would create precedents for other irregular employment arrangements. However, the inquiry believes that an amendment could be crafted to make it clear that only taxi drivers engaged under a bailee condition or Driver Agreement would be covered. Further, the inquiry notes that other jurisdictions specifically cover taxi drivers and that the proposed national law would also cover drivers.

7.3.3 Properly insured taxis

In relation to vehicle insurance, the main concerns raised in submissions related to the level of excess a driver should be required to pay. The inquiry sees no reason to alter its draft recommendations on insurance requirements, but notes that there are deeper issues in relation to the payment of excess.

In particular, the inquiry re-iterates that if the driver is not at fault, the driver should not be liable for any excess. However, where the driver is at fault, considerations of natural justice must apply. The operator, in attempting to keep costs down, may decide to buy an insurance policy with a high excess. This is not a concern to the operator as he or she is not liable for this excess in instances where the driver is at fault; but it is a significant concern for the driver who cannot influence the level of excess. If the driver is at fault, the inquiry's view is that no excess should be imposed. The exception is in cases of willful or reckless conduct by the driver in which case the driver could become liable.

Compulsory insurance by companies regulated under the *Insurance Act 1973 (Cth)*, will have other community wide benefits. For example, more regular insurance to the taxi industry will mean that other members of the community do not pay for unpaid claims for damages arising from non-payment by taxi clubs or owners, through higher insurance premiums. It will also mean that drivers have more certainty over their rights and obligations in respect of insurance. Limiting insurance suppliers to those regulated under the *Insurance Act 1973* will also have benefits in ensuring that disputes are handled by a dedicated insurance ombudsman.

Taxi clubs

Taxi clubs have been formed for a number of reasons and cover a range of activities. Some have been formed as social clubs or driver associations. Some offer their members products that look very much like insurance products.

Many of these taxi clubs are, or have been, incorporated under the Victorian *Associations Incorporation Act 1981*(AI Act). Taxi clubs registered under the AI Act are not required to comply with national corporations legislation.[14] However, taxi clubs incorporated under the AI Act do have statutory responsibilities, including – for example– meeting requirements to hold annual general meetings, lodge annual statements and maintain accounting records.[15]

As the body administering incorporated associations legislation in Victoria, Consumer Affairs Victoria has responsibility for ensuring that only non-trading, non-profit taxi clubs are registered under the AI Act and then ensuring that these registered clubs comply with their obligations under the Act.

Many Victorian taxi operators self-insure against property damage through taxi clubs. Clubs are funded by regular contributions from their members, who receive limited cover in return. Taxi clubs that provide discretionary mutual risk products[16] in Victoria are generally incorporated under the AI Act.[17]

Although a number of these taxi clubs may be underwritten by general insurers for third party property claims, a proportion of the clubs are not underwritten by an APRA approved insurer.

As noted in the Draft Report, the inquiry heard of numerous instances in which a driver makes regular payments to the operator for vehicle insurance. This money is paid to taxi clubs. In the event of an accident, the driver often pays

14 Section 53 *Associations Incorporated Act 1981*

15 Sections 30 and 30A of the *Associations Incorporated Act 1981*

16 Mutual risk products (MPRs) are risk products that provide an alternative to conventional general insurance products. A MRP scheme involves members contributing money which is pooled and held by the entity operating the scheme ('the MPR provider'). The MPR provider may use the pool of money to obtain group insurance to cover specified risks of the members and for paying claims by members up to a certain limit. In the case of a discretionary MPR scheme, the payment of claims or the provision of financial assistance is at the discretion of the MPR provider.

17 Under section 51(1) of the AI Act, an incorporated association must not (a) trade; (b) secure pecuniary profit for persons who are members of the incorporated association; or (c) as trustee, trade or secure pecuniary profit for persons who are members of the incorporated association

an ‘excess’ of up to $1,500 and is assured that the taxi club will pay any third party claim for property damage. However, the taxi club often fails to settle any such claims and the insurer of the third party may issue legal proceedings against the driver months or years later seeking amounts as high as $20,000.[18]

Prompted by issues raised in the inquiry’s Draft Report, Consumer Affairs Victoria (CAV) has commenced an investigation of the compliance of taxi clubs registered under the AI Act with the provisions of the Act.[19]

The inquiry considers the poor practices often adopted by taxi clubs to be unacceptable. The inquiry acknowledges the work done by the Victorian Federation of Community Legal Centres to raise these issues and represent taxi drivers in their dealings with taxi clubs. The inquiry’s view is that, in the first instance, Consumer Affairs Victoria should take strong immediate and ongoing action to ensure that taxi clubs comply with the provisions of the AI Act when they are registered under the Act. In the longer term, the inquiry considers that taxi clubs would be better regulated under the Commonwealth *Corporations Act 2001* and that the Victorian Government (through CAV) should take steps to bring this about.

Those taxi clubs that continue to offer insurance-like products should be subject to greater scrutiny of their activities by CAV in relation to allegations of misleading and deceptive conduct.

7.3.4 Driver accreditation

The aim of the taxi driver accreditation scheme is to ensure that taxi drivers are ‘competent’, have passed relevant character checks (such as national police checks), have a good driving history and are medically ‘fit’. However, as discussed in the Draft Report, the inquiry found that the regime is complex, inflexible and costly to all parties. Further, it accounts for a disproportionate call on the regulator’s resources and the benefits or intended outcomes of the scheme are often questionable.[20]

The inquiry’s view is that the taxi driver accreditation scheme should continue to check the past ‘character’ of a taxi driver. However, the inquiry considers there is scope for improving the system to retain a primary focus on safety but balance this with considerations of justice, fairness, affordability, efficiency and practicality. While based around the identification of key disqualifying offences in legislation, the scheme should also make appropriate provision for the use of discretion by the TSC – with transparency required in the exercise of this discretion.

The inquiry notes that the current scheme is ponderous to implement and that some operational activities could be streamlined following closer scrutiny of the accreditation framework. For example, the loss of a taxi driver’s driver licence currently does not result in an automatic suspension of taxi driver accreditation: the system requires the regulator to issue a ‘show cause’ notice and process before the accreditation can be suspended. The inquiry considers that it is worth revisiting the regulatory framework to perhaps nominate some offences that lead to automatic suspension of accreditation.

In addition, the inquiry proposes that the decision to not grant or revoke accreditation would be subject to internal review by the TSC. An unsuccessful applicant could then take the matter to VCAT. This would allow the driver the right to question the decision and provide additional information to the regulator in the first instance, without incurring the additional costs associated with an appeal. The inquiry expects such a regime to greatly improve the timeliness and consistency of decisions, as well as reducing the number of cases appealed to VCAT.

Currently, the VTD has no regulatory responsibility for the safety or operation of buses: this is the responsibility of Transport Safety Victoria. However, the VTD is responsible for accrediting bus drivers. In addition, the VTD is

18 See chapter 13 of the Draft Report

19 In considering the outcome of the CAV investigation, it is important to note that taxi clubs are formed for a variety of reasons to provide a range of services that are not mutually exclusive. The focus of the inquiry has been on the provision of mutual risk products. However, CAV has a different focus and its investigation is being conducted parallel to, and not in conjunction with, the inquiry. CAV’s remit under the AI Act is to ensure the clubs furnish annual reports, provide rules for endorsement and provide contact details and notify of any changes to these. To date, its investigations have found that a number of clubs failed on some or all of these requisites.

20 See chapters 7 and 8 of the Draft Report

responsible for accrediting driving instructors, while having no regulatory oversight of their performance. The inquiry proposes that other transport agencies should be responsible for the accreditation of bus drivers and driving instructors. This would link accreditation to the relevant regulator and impose the associated costs on those regulators – an appropriate public policy outcome. If the Government wishes to continue to use the taxi accreditation scheme to accredit bus drivers and driving instructors, the TSC should be permitted to recoup fees for service from the relevant agencies.

7.3.5 Taxi Customer Charter

A number of submissions called for the introduction of a code of conduct for taxi drivers to help to improve the image of the industry. The inquiry supports this idea, but notes there is already a *Customer Charter for Victorian Taxi Services* in existence. This Charter was announced in March 2004 as part of the then Victorian Government's 17 point reform plan for the taxi industry (released in May 2002). At the time, the then Minister for Public Transport stated that the Charter "would provide drivers and passengers with a clearer understanding of their rights and responsibilities" and that installation of the Charter in all taxis "would ensure both passengers and drivers were aware of the appropriate conduct required during a journey".[21] A summary version of the Charter was required to be displayed in taxis from 19 April 2004.

The Charter was based on requirements set out in the Transport (Taxi-Cabs) Regulations 1994, as well as expected standards of behaviour. It set out a number of specific rights for taxi customers (such as the right to a driver who is licensed and accredited, choose a preferred route, see the metered fare and be given a receipt for their trip) and corresponding responsibilities (such as paying the correct fare, wearing a seat belt and not requesting the driver to exceed the number of passengers permitted to be carried in the taxi).

The Charter states that taxi drivers have the right to ask for proof of ability to pay, request a deposit up to the estimated fare and refuse to take passengers (or terminate a hiring) if they are violent, noisy, misbehaving, filthy or offensive. Drivers' responsibilities include being courteous and helpful, knowing and obeying traffic laws, knowing major routes and destinations, understanding and speaking English, taking the most direct route and being clean, neat and tidy.

While major changes to taxi regulations have been made twice since 2004, the Charter has not been amended to take account of these changes. In fact, very little emphasis has been given to the Charter since it was launched. The VTD has not promoted the Charter to customers, drivers or operators. Given the other demands on its resources, the VTD has also not seen it as a priority to ensure all taxis are displaying the Charter summary. In these circumstances, it is hardly surprising that submissions to the inquiry showed almost no awareness of the Charter.

Given the inquiry's findings about low levels of service performance, especially in the metropolitan area, it could be concluded that the Charter has not been a success.

The inquiry considers that a service charter could be a useful mechanism to reinforce messages about service performance and responsibility in relation to the reforms the inquiry is proposing. However, to fulfil this function, the current Charter would need substantial amendment. The purpose of the Charter also needs to be clearly identified. There is no need for the Charter to repeat all relevant regulations; rather, it needs only a limited number of core messages if it is to have any impact. It also needs to clearly indicate how and where customers can lodge complaints about service standards. Far greater efforts need to be made to raise awareness of the Charter.

There should also be scope for individual operators or networks to develop their own Charters incorporating the general industry Charter. In a competitive market, the inquiry expects that firms would want to differentiate their services and highlight this to their customers.

21 Minister for Public Transport, Media Release, 15 March 2004

7.4 Final recommendations

Driver entry and training

5.1 The existing taxi and hire car driver accreditation scheme should be redeveloped to address policy, equity, efficiency and resourcing issues. An adapted model should identify safety as the prime consideration and be based on identifying key disqualifying offences in legislation, but should also be structured in a way that appropriately provides for the use of discretion by the Taxi Services Commission and for use of the discretion to be transparent. It should provide for internal review mechanisms that are separate from the operational decision making of the Commission, as well as for appeals against decisions of the Commission to be made to the Victorian Civil and Administrative Tribunal (VCAT).

5.2 The administration of bus driver and driver instructor accreditation should be transferred to a more relevant Government agency. If this is not done the Taxi Services Commission should be able to recoup fees for providing these accreditation services from the agencies concerned.

5.3 Taxi and Pre-Booked Only driver entry requirements should be adjusted to remove the ability of applicants to undertake an Independent Driving Assessment in lieu of having held a Victorian Driver Licence for 12 months. The requirement should be for all applicants for driver accreditation to have held a Victorian Driver Licence for a minimum six month period. An equivalent interstate or New Zealand licence held for six months before qualifying for a Victorian licence should also meet this requirement. Further, the six month restriction relates to a full licence, not a probationary licence. Persons from overseas on temporary or permanent visas should be required to provide evidence of having held their Victorian licence and been a resident in Victoria or interstate for a minimum of six months.

5.4 Entry level examination of new drivers should be undertaken independently of Registered Training Organisations and Authorised Taxi Organisations. New independent Knowledge exams for the Metropolitan and Urban zones should be developed and administered directly by the Taxi Services Commission or under contract to a third party. The independent examination should be compulsory for all new taxi drivers intending to drive in the Metropolitan and Urban zones, as a mandatory step before obtaining driver accreditation. This requirement replaces the current compulsory requirement for applicants to complete the *Course in Taxi Driving.* Further, from 1 July 2014, all Metropolitan and Urban zone taxi drivers who have driven for less than five years and who are seeking to renew their driver accreditation should also be required to pass or have passed relevant sections of the Knowledge exam for their area before their accreditation renewal is issued.

5.5 The Knowledge exams should assess applicants against the range of proficiencies outlined in the current *Course in Taxi Driving*, and should be developed in consultation with the taxi industry and other key stakeholders, such as the disability community and advocacy agencies. The exam should include a combination of online and on-site testing and practical driving and customer service components.

5.6 Registered Training Organisations, the Taxi Services Commission, disability advocacy groups and service users should work together to enhance the current content and delivery of disability awareness training. This should occur within the context of the *Provide Taxi-cab Customer Service* unit of the *Course in Taxi Driving* to ensure that training remains relevant and that new drivers are provided with exposure to and awareness of the needs of a wide range of customers. The Knowledge exams should include assessment of knowledge and skills in disability awareness.

5.7 Drivers who intend to drive a Wheelchair Accessible Taxi (WAT) and/or a taxi capable of transporting a passenger with a wheelchair should continue to be required to undertake the stand-alone unit of the taxi driver training course, *Provide Wheelchair Accessible Taxi Services to Passengers with Disabilities*. Assessment of this unit should be conducted through an independent examination, in the same way as the Knowledge exam.

5.8 The inquiry considers subsidising WAT driver training to be unnecessary given the range of other incentives (for example the lifting fee and high occupancy fee) in place to ensure there are sufficient numbers of WAT drivers, and it should be removed within a year.

5.9 Regional and Country zone taxi drivers should not be required to undertake a Knowledge exam. However, permit holders in these zones should be required to ensure the adequate training of their drivers either through delivery of their own induction and training programs, by the practice of 'mentoring' new drivers and/or by choosing to send drivers to all or part of a taxi driver training course.

5.10 The practice of the industry mentoring new drivers 'on the job', which currently occurs predominantly in country Victoria, should be encouraged across the industry. The Taxi Services Commission should develop appropriate guidelines, in conjunction with the industry, for managing in-car training (for example, informing customers of the presence of a second driver who is providing in-car mentoring at the time of booking or when a customer is selecting a taxi from a rank).

Driver pay and conditions

5.11 Bailment agreements should be replaced with a fairer Driver Agreement for drivers who are engaged by permit holders to drive their vehicles. New legislation should be passed to require all permit holders to engage taxi drivers under the new Driver Agreement (unless the drivers are otherwise engaged as employees). The Driver Agreement should be drafted recognising that the parties to the agreement do not have equal bargaining power and should provide a better revenue sharing arrangement for drivers by establishing a minimum percentage of 55 per cent of the fare box revenue to be provided to the driver.

5.12 Provisions that should be included in the new Driver Agreement include:

- That the driver must be paid a share of the fare box of no less than 55 per cent, excluding lifting fees and, if relevant, surcharges paid to the driver
- That the driver must be allowed to take up to four weeks unpaid leave where s/he has worked regularly for 12 months or more for the permit holder
- That the permit holder must maintain a third party property insurance policy. The permit holder will be required to indemnify his or her driver/s in relation to any vehicle damage (including to the taxi) arising out of the use of the permit holder's taxi. Any excess payable under an insurance policy for a claim involving a permit holder's vehicle should be paid by the permit holder, unless the driver has been wilfully negligent (refer also to Recommendation 5.21).
- The service standards with which the driver must comply
- That the operator is responsible for all vehicle related operating and maintenance costs, including fuel
- The basis on which either party may end the agreement
- That either party can raise a concern about specific application of the Agreement for advice by the Taxi Services Commission. In the event the matter is not resolved, the Commission can refer the parties to the Victorian Small Business Commissioner (VSBC) or to VCAT.

5.13 Permit holders and drivers should be allowed to reach an alternative agreement on payment rates (such as minimum hourly rates) subject to the driver being no worse off. This means that drivers could receive the greater of a minimum hourly rate or the minimum percentage of the fare box revenue specified in the Driver Agreement.

5.14 The Taxi Services Commission should be able to bring proceedings before VCAT or a court to enforce the terms of a Driver Agreement.

5.15 The Taxi Services Commission should undertake a review in year five of the reform implementation program to examine the continuing necessity of the Driver Agreement. The review should assess the adoption of reforms by industry and the impact of these measures on driver pay and conditions. The review should specifically consider the extent and effectiveness of the use of the Driver Agreement as compared with other employment arrangements, as well as growth in numbers of owner-drivers and indicators of industry

retention of drivers. If the reform measures have not sufficiently improved driver pay and conditions, the Government could consider the further step of requiring all drivers to be engaged under a written employment contract.

5.16 The Victorian Government should amend the *Accident Compensation Act 1985* to make clear that a taxi driver engaged under a Driver Agreement is deemed to be a worker for the purposes of the Act and the *Accident Compensation (Workcover Insurance) Act 1993*. WorkSafe Victoria should implement strategies to better inform industry participants about their rights and obligations under these Acts.

5.17 Through legislative amendment, the Victorian Government should put beyond doubt that taxi drivers are owed a general duty of care by any person that has engaged them in their business. WorkSafe Victoria and transport safety regulators should raise the awareness of permit holders and drivers of their rights and responsibilities and take enforcement action as appropriate to provide the necessary case law that makes clear the Courts' position on this.

5.18 The Taxi Services Commission should provide guidance to drivers on their rights in relation to workers compensation insurance, occupational health and safety, crimes compensation and other statutory protections.

5.19 Consumer Affairs Victoria (CAV) should ensure that taxi clubs comply with the provisions of the *Associations Incorporation Act 1981,* when they are registered under the Act. The Taxi Services Commission should liaise with CAV in relation to the regulation of taxi clubs under the Act and other general consumer legislation. In addition, CAV should monitor clubs that offer insurance-like products for compliance with the conduct provisions of the Australian Consumer Law, particularly those provisions relating to misleading or deceptive conduct.

5.20 The existing *Customer Charter for Victorian Taxi Services,* introduced in 2004 in relation to taxi drivers and their relationship with customers, should be withdrawn and a new revamped charter introduced. The new charter should take into account best practice in relation to customer charters and the recommendations of the inquiry around safety and service standards for passengers and drivers, community perceptions and the responsibilities of each party. The Taxi Services Commission should work with taxi drivers, the industry and consumer groups, including consumers with a disability, to put this into effect.

Properly insured taxis

5.21 Legislation should require a permit holder to have a policy of insurance covering third party damage arising out of the use of the permit holder's taxi. The policy should:

- Be issued by a corporation authorised under the *Insurance Act 1973* (Cth) to carry on an insurance business, and
- Provide sufficient cover in the opinion of the Taxi Services Commission.

Legislation should require a permit holder to indemnify his or her driver/s in relation to any vehicle damage (including to the taxi) arising out of the use of the permit holder's taxi. Any excess payable under an insurance policy for a claim involving an operator's vehicle should be paid by the permit holder, unless the driver has been wilfully negligent.

5.22 The Taxi Services Commission should ensure its communications with drivers recognises that many drivers come from non-English speaking backgrounds and have difficulty with complex written English documents.

8 Customer and driver safety

8.1 Inquiry's views in Draft Report

The Victorian Government's concern for the safety of taxi drivers and passengers is evident by the strong emphasis on safety in the inquiry's Terms of Reference. This focus was reflected in the inquiry's Draft Report, which included a dedicated chapter on safety matters and several general and specific recommendations designed to improve safety.

Significant concerns were raised with the inquiry regarding the safety of taxi customers and drivers. The inquiry agrees that ensuring the safety of passengers and drivers must remain a core objective of taxi and hire car regulation.

While recognising that Victoria's taxi and hire car industry has a relatively good record of passenger safety, the inquiry found that improvements could be made in a number of areas. The most pressing issues were identified as passenger safety late at night at taxi ranks, child safety in taxis and safety issues for women passengers and passengers with a disability. Some safety concerns also related to unsafe driving practices, such as driver distraction (drivers talking on the phone or programming their GPS units) and poor driving skills (such as speeding and merging dangerously).

The inquiry found widespread concern within the industry and the broader community about the safety of taxi drivers. Many drivers told the inquiry of being involved in a situation where they felt unsafe while at work, with incidents ranging from customers damaging vehicles to verbal abuse from passengers and serious physical assaults. The inquiry noted that taxi driving is an inherently risky and dangerous occupation, with some estimates putting taxi drivers as having up to 15 times the average exposure to occupational violence. The inquiry heard of considerable driver dissatisfaction with the application and operation of current safety measures (particularly driver protection screens, safety cameras and duress alarms) and police responses to anti-social behaviour by passengers.

The inquiry discussed in detail the range of measures and programs introduced by the industry, the regulator and the Victorian Government to address taxi safety since 2006. While observing that some of these initiatives had been successful – or partially successful – the inquiry found that improvements are needed in the operation and effectiveness of a number of measures. In particular, the inquiry found a lack of evidence about the effectiveness and benefits of safety cameras and driver protection screens, problems with the current design of protection screens and a lack of consistent practices in operating and responding to duress alarms.

Several specific regulatory 'gaps' were identified: the absence of an industry-wide, risk-based regime for managing driver fatigue, inadequate provisions for young children travelling in taxis and hire cars, and a shortage of data and information about in-cab incidents.

The inquiry noted that the complexity and fragmentation of the overall regulatory environment means that safety matters relating to taxi and hire car services are not dealt with in a holistic way, with measures often being taken on an ad hoc or selective basis. The inquiry observed that prescriptive safety-related regulations about particular pieces of equipment and their operation had resulted in substantial costs for industry, despite there being little verifiable data about the safety benefits accruing to passengers and drivers. This approach has also stifled innovation and the industry's ability to accommodate advances in safety-related equipment, practices and technology.

The inquiry observed that, as safety-related regulations frequently impose significant costs on the industry, intervention by regulators must consider all costs and benefits, and be the minimum required to ensure safe vehicles, safe drivers and safe passengers.

Finally, the inquiry cautioned that safety should not be seen as the sole responsibility of the taxi and hire car industry, but as a shared responsibility between industry, taxi users, government, Victoria Police, late night venues and major event organisers.

Draft recommendations

The inquiry made six draft recommendations directly related to safety. These recommendations aimed to move away from an unduly prescriptive regulatory regime to a risk-based, outcomes-focused model designed to give the regulator and the industry greater flexibility in responding to safety issues.

- Regulatory impact assessments should be completed as a mandatory requirement before decisions are taken in relation to the implementation of safety initiatives in the commercial passenger vehicle industry.
- Where possible, safety measures should be outcomes-focused rather than prescriptive. The Taxi Services Commission should undertake research into the performance of current initiatives and other potential safety-related measures and provide advice to the Department of Transport as necessary.
- There should be an immediate moratorium on the roll-out of the new taxi safety cameras while the inquiry's report is being considered. In this period, a cost and benefit assessment of applying the new camera standard in country Victoria should be undertaken. More generally, the specifications set for this camera should be reviewed against appropriate benchmarks. The target date for completing this work should be the end of 2012.
- The requirement for driver protection screens should remain in place in the short term, but should be reviewed after three years to consider the impact and performance of other safety measures that may obviate the need for screens. Some of these will arise from the implementation of the inquiry's reforms, such as the imposing of Occupational Health and Safety duties on permit holders and the extent of take up of purpose-built taxi vehicles with in-built safety measures.
- The exemption for Victorian taxis and hire cars from the mandatory use of child restraints for children aged one year or older but less than seven years should be removed. The taxi and Pre-Booked Only cab industry should be responsible for managing the operational and service issues associated with supplying appropriate child restraints for passengers. Authorised Taxi Organisations and permit holders should be able to levy reasonable charges for child restraints where not provided by the passenger.
- The Department of Transport, with coordinated involvement from the Taxi Services Commission and other stakeholders such as Victoria Police, local councils, liquor licensees and taxi industry representatives, should develop guidelines on establishing and operating safe taxi ranks, including addressing issues relating to:
  - Physical design and infrastructure needs
  - Operational requirements such as supervision and CCTV
  - Management of rank space for an expanded range of services
  - The differing requirements for inner city, suburban and regional safe ranks
  - Clarity of funding arrangements for the ongoing investment in and sustainability of safe ranks.

  The inquiry notes the difficulties experienced by local councils in funding the ongoing operations of safe ranks. As part of the development of these statewide guidelines, consideration should be given to developing policies for safe rank funding options including user pays, an accord between beneficiaries of safe ranks to share costs, and directing some of the revenue from the sale of taxi licences to supporting safe ranks.

8.2 Issues raised in submissions

Generally, the inquiry's safety-related recommendations received strong industry and community support. The proposed shift to risk-based, outcomes-focused regulation, the requirement for a regulatory impact statement prior to introducing safety-related measures and the development of guidelines for safe taxi ranks were supported by the overwhelming majority of submissions. There was also strong support for the moratorium on the roll-out of safety cameras in country areas.

The main issues raised in submissions related to recommendations covering child safety restraints, safety cameras, protection screens and safe taxi ranks.

8.2.1 Child safety restraints

A significant minority of submissions (around 30 per cent of those commenting on the issue and mostly from industry participants) did not support the removal of the exemption for the use of child safety restraints. The VTA argued that while the recommendation was "well intentioned, there are too many operational and community health complexities in its application" (although these complexities were not detailed in the VTA's submission).[1] TISV did not support the

1 VTA submission L179, p. 24

recommendation on the basis that taxis have insufficient boot space to carry a restraint as they are already carrying a full size tyre and an LPG unit.

Some taxi operators were vehemently opposed to this recommendation, arguing that it will be too costly, 'unworkable' or 'inconvenient' given the relatively small number of times a restraint is required. For example, Riviera Taxis described the proposal as "a legal minefield and a logistics nightmare" with significant OH&S implications and potentially prohibitive outlay costs.[2] Other operators cited 'health concerns' as the primary reason for disagreeing with the inquiry's recommendation.

A number of operators supported the carrying of restraints in all taxi vehicles, provided they have some means to recoup all or part of the costs of providing the restraint. Others endorsed the recommendation if it is made clear that it will not be necessary for each and every taxi to carry a restraint, but for a restraint to be made available when a passenger requests one as part of a booked service.

While commending the inquiry for tackling this issue, Victoria's Child Safety Commissioner called for all Victorian taxis to be required to carry a convertible child restraint and a booster seat, stored in a capsule on top of the taxi. VCOSS also urged the inquiry to recommend that child safety restraints in taxis be provided "free of charge as part of a universally accessible service".[3]

8.2.2 Safety cameras and protection screens

The VTA supported the recommendation for a moratorium on safety cameras in country areas, but considered this should also be extended to driver protection screens.

While the vast majority of submissions supported the moratorium, some country taxi operators viewed the recommendation as 'discriminating' against country areas and stated that cameras should be mandatory across Victoria. Others shared the inquiry's concerns that a high cost is being imposed on country taxi operators without a proper assessment of the claimed benefits or sufficient choice being permitted in the type of camera to be installed.

8.2.3 Additional suggestions

The VTA urged the inquiry to recommend a community engagement process to "build respect for taxi drivers", including the appointment of a well-regarded community figure to lead a high profile campaign. The VTA also called for TSC officers to be given explicit powers to deal with taxi customers who behave in an offensive but non-criminal manner and the development of a stronger relationship with Victoria Police and other industry sectors to ensure an appropriate response to criminal actions directed at taxi drivers.[4]

While endorsing the inquiry's recommendation relating to safe ranks, several disability advocacy and service groups urged the inclusion of accessibility requirements in safe rank guidelines. The Victorian Equal Opportunity and Human Rights Commission suggested that these guidelines include accessibility requirements as set by law and other safety features "to ensure that such facilities are accessible to people with a range of disabilities".[5]

At the inquiry's hearings, Victoria Police indicated support for a number of safety-related initiatives:

- Improvements in the operation of safety cameras, such as self-loops
- The introduction of prepaid flat fares on set routes (from pre-determined ranks that are monitored by CCTV)
- An improved and more effective partnership (or formal accord) between the industry and Victoria Police, including elevating police involvement in such a partnership to Assistant Commissioner / Deputy Commissioner level.

Victoria Police also raised the possibility of creating a specific offence for fare evasion in taxis, while acknowledging that improvements can be made to the process when taxi drivers report fare evasion at a police station.[6]

2 Riviera Taxis submission L064, p. 9
3 VCOSS submission E494, p. 10
4 VTA submission L179, p. 24
5 VEOHRC submission E349, p. 8
6 TII hearings, submission by Assistant Commissioner Chris O'Neill and Inspector Phil Green, Victoria Police, 13 August 2012

8.3 Inquiry's response to submissions

Recent events have further highlighted the importance and seriousness of safety concerns relating to taxi drivers. In June of this year, eight people – including four youths – were charged over a series of violent attacks on taxi drivers in Melbourne's western suburbs during a 90-minute period on a Sunday night. In early August, taxi driver Stephen Seymour was murdered by a passenger in Mount Waverley.

These violent attacks have prompted public discussion of additional driver safety measures, including a requirement for passengers to show identification before taking a cab, tougher penalties for assaulting drivers, making protection screens mandatory in all cabs and the introduction of purpose-built vehicles that separate drivers from passengers.

The inquiry has carefully considered these options in making its final recommendations. The inquiry's view is that more is required than simply incorporating safety measures within existing taxi vehicles in a piecemeal or ad hoc manner. The inquiry also sees driver safety as an issue that extends well beyond the industry and one that must be tackled using a combination of measures and through joint action by industry, government and police.

8.3.1 Child safety restraints

The inquiry's recommendation in relation to child safety restraints does not require all taxi and hire car vehicles to carry a restraint. The effect of the recommendation is that a child passenger can no longer travel in a taxi without the appropriate restraint. This restraint can be provided either by an adult passenger accompanying the child or by the ATO or taxi permit holder.

The practical effect of this recommendation will be:

- The driver of a taxi that is hailed in the street or taken from a rank should refuse to carry a child passenger if an appropriate restraint is either not provided to the driver or the cab is not carrying a restraint; and
- Where a restraint is requested when booking a taxi or hire car service, the ATO or individual permit holder must provide the appropriate restraint.

The inquiry's view is that ATOs and permit holders can decide for themselves the best option for meeting this obligation. An ATO may opt to supply all its vehicles with a restraint (carried in the car boot or in a roof top capsule) or to have a small number of restraints it can make available on request. An independent permit holder (one not affiliated with an ATO) who operates a single cab and provides a booking service may need to ensure that the vehicle carries a restraint at all times.

The inquiry accepts industry arguments that providing these restraints comes with a cost and that it is reasonable for customers requiring this service to pay an additional fee. However, the inquiry notes that these costs could be recovered in the general level of fares rather than through specific additional fees.

The inquiry does not accept that the 'complexities' in this arrangement are so great as to render the provision of restraints unworkable. As is already being demonstrated by a number of hire car operators (and in other jurisdictions), it is possible for a taxi permit holder to make available an appropriate restraint in one form or another. Implementing the inquiry's recommendations in relation to advertising on taxi vehicles should also extend to permitting advertising on the outside of a roof top capsule to assist in recouping costs.

The inquiry again notes the compelling evidence of the vulnerability of children under seven who are not appropriately restrained in a car and remains strongly of the view that any perceived 'complexities' should not be allowed to outweigh the safety of young children travelling in a taxi.

8.3.2 Safety cameras and protection screens

The inquiry notes that there was some confusion around the intent and effect of a number of the Draft Report's safety-related recommendations.

The wording of draft recommendation 7.3 in relation to the moratorium on safety cameras appears to have been misinterpreted by some people as recommending that the moratorium should extend statewide or that country taxis should have a permanent exemption from installing a camera. The inquiry's intention was that the moratorium would

apply only to country taxis and that cameras would continue to be required for all other zones. While recognising that cameras are an important safety tool (especially for their deterrent effect), the inquiry accepted the concerns raised by country operators about the high cost of installing a camera that meets current highly prescriptive specifications, with little analysis being carried out by the regulator about the associated benefits.

The recommendation aimed to ensure that the regulator conducts a proper assessment of the costs and benefits of installing a camera that meets the current specifications in country areas, and also explores options for permitting a broader range of cameras to be used in taxis.

Following the release of the Draft Report, the Government indicated its support for this recommendation and announced an immediate moratorium on the roll-out of taxi safety cameras in country areas while the VTD undertakes a cost-benefit assessment. The VTD has written to all country operators informing them of the moratorium. Operators may still fit cameras if they wish and existing camera systems will remain operational and supported by the VTD's camera download unit and Victoria Police.

Recommendation 7.4 suggested driver protection screens should be reviewed in three years to 'consider the impact and performance of other safety measures that may obviate the need for screens'. The intent behind this recommendation was that other measures, such as those designed to encourage the take up of purpose-built vehicles, may provide more effective protection for drivers in the future.[7] The recommendation was not intended to imply that there was no need for ongoing in-car protection of drivers; rather, it was aimed at identifying whether better options may be available in the future than the current removable screens, which are not suitable for all vehicle types and are disliked (and therefore not used) by most drivers.

The inquiry has amended these recommendations to clarify their intent. The inquiry has also amended its recommendations on regulatory impact statements and outcomes-focused regulation to provide better guidance to the regulator on how these recommendations should be implemented.

8.3.3 Taxi vehicles

The inquiry has strengthened its recommendations covering the kinds of vehicles that can be used as taxis (discussed in greater detail in chapter 5). The inquiry's recommendations aim to give the industry the option of using purpose-built vehicles that have in-built safety features, such as a separate driver compartment.

8.4 Final recommendations

6.1 All taxi permit holders, regardless of whether or not they are affiliated to an Authorised Taxi Organisation, must ensure their taxis adhere to outcomes-based regulations relating to GPS tracking, safety monitoring and emergency response capability.

6.2 Consistent with Recommendations 3.2, 3.3 and 3.5, superior designed, purpose-built taxi vehicles should be encouraged to operate in the Victorian fleet to improve safety as well as accessibility. The Taxi Services Commission should conduct further research into the influence of the age of vehicles on safety to determine whether to retain and/or amend other taxi and PBO age limits in the future.

6.3 The requirement for driver protection screens should remain in place in the short term, but should be reviewed by the Taxi Services Commission after three years to consider the impact and performance of other safety measures that may replace the current screens policy (for example, the extent of take up of purpose-built taxi vehicles with in-built safety measures such as separate driver and passenger compartments).

6.4 The exemption for Victorian taxis from the mandatory use of child restraints should be removed. Taxis and Pre-Booked Only cabs should be responsible for managing the operational and service issues associated with supplying appropriate child restraints for passengers. Where restraints are carried in a roof capsule, advertising should be permitted on the capsule (in line with recommendation 3.10).

7 See chapter 5

6.5 The current Taxi Rank Safety Program should be extended for a further four years, and more ‘safe city’ ranks established in the Melbourne CBD and inner city locations.

6.6 The Victorian Government, with coordinated involvement from the Taxi Services Commission and other stakeholders such as Victoria Police, local councils, liquor licence holders, major events providers and the taxi industry, should develop statewide guidelines on establishing and operating safe taxi ranks, including addressing issues relating to:

- Physical design and infrastructure needs
- Accessibility requirements for passengers with a disability and reduced mobility
- Operational requirements such as supervision and CCTV
- Management of rank space for an expanded range of services
- The differing requirements for inner city, suburban and regional safe ranks
- Clarity of funding arrangements for the ongoing investment in, and operation and sustainability of, safe ranks.

6.7 The Victorian Government, in conjunction with Victoria Police, the Taxi Services Commission and taxi industry representatives, should develop a strategy for reducing the incidence of criminal behaviour by passengers and community members affecting taxi drivers and their vehicles. This strategy should ensure better reporting, collection and analysis of relevant data and appropriate community behaviour change measures, including the possibility of increasing penalties for assaults on taxi drivers by adding drivers to the list of ‘protected occupations’.

6.8 Regulatory impact statements should be completed as a mandatory requirement before decisions are taken in relation to the implementation of significant safety initiatives in the commercial passenger vehicle industry. In cases where government policy does not require a formal regulatory impact statement, as a minimum the development of the policy should be guided by a cost-benefit analysis which should be documented and ideally form part of the consultation process (refer Recommendation 10.14).

6.9 The Taxi Services Commission should undertake research into the performance of current safety initiatives and other potential safety-related measures and provide advice to the Government as necessary.

9 Greater responsibility for performance

9.1 Inquiry's views in Draft Report

9.1.1 Empowering consumers

The inquiry's terms of reference emphasised consumer concerns with taxi and hire car services. The Draft Report noted that the complexity of the taxi and hire car industry makes it confusing for consumers to identify who is responsible for delivering services, where to direct a complaint about poor service or how to compare the performance of different service providers. The report also noted that the absence of easily accessible, up to date, centrally available information hampers effective monitoring and enforcement activity and results in unnecessary administrative burdens for government agencies, as well as for private firms that deal with taxi and hire car matters.

The inquiry identified the imbalance in information between taxi operators and consumers as a key cause of market failure in taxi services and found that consumers should be provided with more information about the industry and its performance to address this imbalance. The inquiry also found that aspects of the regulatory framework are hindering service differentiation, restricting consumer choice and diminishing the capacity of permit holders and ATOs to provide consumers with signals about higher levels of quality or different types of service offerings.

The inquiry explored a number of problems in the current mechanisms for dealing with complaints, identifying that consumers do not know where or how to lodge a complaint and finding evidence of a strong public perception that existing complaints handling by the industry and the regulator is difficult to access, inadequate and ineffective.

9.1.2 A new system of approval and responsibility for service

One of the core findings by the inquiry was that the existing regulatory regime governing taxis and hire cars in Victoria is overly complex and prescriptive. Rather than creating accountability for the delivery of service standards, the current regime contributes to confusion amongst industry participants, enables responsibilities for service to be avoided and results in poor outcomes for taxi users.

The Draft Report noted that industry and the Government agree that the regime is far from 'best practice' and that the high costs associated with complying with the regulations are unrelated to the delivery of measurable benefits. The inquiry proposed replacing the regulatory regime with a new streamlined process to clarify accountability for the delivery of services and a move away from prescriptive regulation to outcomes-based regulation that gives the industry greater choice in how to meet these regulated outcomes.

The proposed new permit holder scheme aimed to elevate responsibilities for service delivery to the organisation or individual that operates the taxi and/or PBO. This new system was designed to encourage greater competition between the suppliers of services and give them greater flexibility to offer customers quality services and products. Permit holders would be permitted to hold both taxi and PBO licences and, once approved as a permit holder, would be able to purchase any number of licences they wish. They would not be able to assign their responsibilities for these services to another party. The new system aimed to give permit holders the opportunity to expand and diversify their businesses by combining different service offerings and developing new products that appeal to existing customers or cater to new markets.

Draft recommendations

Empowering consumers

The inquiry made six recommendations designed to empower consumers, give them ready access to information about the industry and improve the accessibility, effectiveness and accountability of the complaints process.

- The Taxi Services Commission should establish a Public Register of industry participants and make the register available on its website. The register should comprise the names of all approved drivers, permit holders and Authorised Taxi Organisations in the commercial passenger vehicle industry, and give information about their business contact details, the services they operate (such as taxis, Pre-Booked Only cabs and/or Wheelchair

Accessible Taxis) and the numbers of vehicles attached to their permit. The public register should be updated in real time as new entrants are granted permits and/or issued licences.

- Requirements for in-vehicle information (such as windshield stickers, placards and other signage) should be compatible with smartphone technology, such as the inclusion of a barcode that can be scanned by mobile phone and other portable devices. The Taxi Services Commission should take steps to ensure that, through this technology, passengers have direct access to the Public Register from the vehicle and, over time, access to information about service performance and driver quality.
- The Taxi Services Commission should take a strong role in providing information services, advice and assistance to consumers to enable them to make informed choices. Provision of consumer information and education about the expansion of services (such as shared ride and flexible services and an expanded pre-booked market through the introduction of Pre-Booked Only cabs) should be a strong focus of the Taxi Services Commission in the early years of reform implementation.
- The Taxi Services Commission should conduct consumer research, including 'mystery shopper' inspections of services and waiting time surveys, on a regular basis and publish the results on its website.
- Complaints about service delivery should be primarily the responsibility of service providers (Authorised Taxi Organisations and permit holders) who will need to have appropriate procedures in place that are readily accessible to all members of the community. The Taxi Services Commission should monitor and report on the industry's complaints management performance and work cooperatively with Authorised Taxi Organisations to achieve desired performance outcomes.
- The Taxi Services Commission should have clear and transparent policies and procedures relating to complaints about its own performance.

A new system of approval and responsibility

The inquiry proposed a suite of recommendations to replace the current accreditation scheme with a new streamlined and more accountable regulatory process. These recommendations should be read in conjunction with the inquiry's proposals for improving the performance of NSPs, removing the requirement for mandatory affiliation with an NSP and reducing the regulatory burden on networks.

- The current taxi industry accreditation scheme, which requires the accreditation of licence holders, operators and network service providers, should be replaced with a new and more streamlined regulatory process that:
  - Removes accreditation for licence holders
  - Replaces accreditation of operators with a permit system
  - Replaces accreditation of network service providers with an approval process for Authorised Taxi Organisations.
- Existing taxi licence holders who have assigned their licence to an accredited operator under the current scheme should be allowed to continue to do so and not be required to obtain a permit. Licence holders and any relevant parties under the licence will be required to maintain up to date basic details (such as a name and business contact details) with the Taxi Services Commission for the Public Register.
- Persons who have obtained accreditation as a taxi operator or who have been granted a hire car licence under the existing scheme should be deemed to meet the new requirements and issued with permit/s automatically.
- Under the new approach, a permit should be issued to applicants who wish to operate a commercial passenger vehicle service (taxi and/or Pre-Booked Only service) and who satisfy the requirements of a character check, proof of identity and national police check.
- Permit holders, once approved, should be able to purchase any number of taxi and/or Pre-Booked Only cab licences they wish.
- Permit holders should not be able to assign the rights of any new licences they purchase that are issued directly from the Taxi Services Commission. Therefore, they will be responsible for meeting the service standards applicable to their vehicles and the drivers they engage.

- Service responsibilities that are currently imposed on licensees, operators and network service providers (under legislation, regulation and licence conditions) and under the taxi accreditation scheme (via accreditation regulations, conditions and Business and Service Standards) should be streamlined and duplication removed.
- In addition to the entry requirements for Authorised Taxi Organisations outlined in chapter 6, minimum operating rules set out in regulation for Authorised Taxi Organisations should include that they:
  - Actively monitor the performance of affiliated permit holders and drivers to ensure they adhere to appropriate safety and service standards
  - Implement customer complaint handling procedures in accordance with approved standards
  - Implement disciplinary procedures in relation to permit holders and/or drivers who fail to adhere to designated standards
  - Provide specified service delivery data to the Taxi Services Commission (for example, in relation to booking performance, fares, driver infringements and complaints) on all booked, rank and hail work provided by their affiliated fleet.
- Authorised Taxi Organisations should be made subject to the consumer guarantee provisions of the Australian Consumer Law. The Taxi Services Commission should liaise closely with the Director of Consumer Affairs in relation to the enforcement of the Australian Consumer Law more generally in the taxi and hire car industries.
- In addition to the requirements proposed in chapter 6, the regulatory requirements for permit holders who opt to operate independently (not affiliated to an Authorised Taxi Organisation) should include that they:
  - Implement customer complaint handling procedures that are in line with approved standards
  - Display their business name and telephone number prominently on the exterior and interior of their vehicles
  - The Taxi Services Commission should focus a large part of its compliance activities in relation to service and safety performance on independent permit holders (given the absence of Authorised Taxi Organisation oversight of independent permit holders)
  - Discussions about rationalising the regulation currently affecting network service providers, involving the Victorian Taxi Association, existing network service providers and other relevant parties, should continue as a matter of priority, with a view to reducing unnecessary or duplicative regulation and streamlining the law to be applied to Authorised Taxi Organisations as quickly as possible.

9.2 Issues raised in submissions

9.2.1 Empowering consumers

While there was general support for the inquiry's recommendations in this area, a number of submissions raised concerns about privacy in relation to the proposed Public Register. The VTA noted that its support would be contingent upon privacy and commercial matters being considered and incorporated into the design process. TISV also urged privacy issues to be taken into account in setting up the register. A small number of operators were strongly opposed to the register on privacy grounds.

Some submissions saw the Public Register as having the potential to contribute to improved standards across the industry. For example, CabFare viewed the creation of the register as "a matter of priority", believing that it will "enhance passenger safety, service provision and dramatically minimise fraud in both the taxi and PBO markets".[1]

The VTA did not support the proposal for the TSC to take a strong role in providing information, advice and assistance to consumers, cautioning against "extending the role of the regulator to include customer advocacy".[2] However, Victoria's Public Transport Ombudsman endorsed the recommendation, noting that consumers feel more empowered and are more able to make well informed choices when both the industry and the regulator provide high quality, accessible information. The Ombudsman also observed that providing such information "should lead to a reduction in complaints about products and services".[3]

1 CabFare submission E505, p. 5

2 VTA submission L179, p. 24

3 Public Transport Ombudsman submission E253, p. 3

The Victorian Equal Opportunity and Human Rights Commission did not support ATOs and permit holders having primary responsibility for dealing with complaints and strongly urged the inquiry to recommend that an independent body, such as the TSC or the Public Transport Ombudsman, deal with complaints about taxi services.

9.2.2 A new system of approval and responsibility for service

The VTA agreed with the inquiry that the current accreditation scheme has been ineffective in delivering positive consumer outcomes. While supporting a more streamlined and outcomes-focused accreditation process, the VTA had reservations about aspects of the system being proposed by the inquiry. In particular, the VTA did not support the removal of accreditation for licence or permit holders. The VTA also stated that, for any new process to be effective, the roles and responsibilities of the regulator and the industry must be clearly delineated.

While observing that an independent regulator is essential to uphold the law, the VTA believed that the enforcement of service standards should rest with the NSP/ATO and that there needs to be a much stronger "chain of responsibility created from the instance where a taxi is booked … to the dispatch and carriage of the passenger".[4] The VTA's view was that NSPs/ATOs should have the clear means to enforce effective sanctions against drivers who 'break the rules' in relation to higher service standards.

Many of the operators opposed to the inquiry's licensing reforms have linked their opposition to concerns that the reforms will lead to lower standards and poorer quality services (see chapter 3). The VTA, along with those licence holders and operators opposed to the removal of mandatory affiliation, also opposed related aspects of the new permit system, arguing that it will lead to independent permit holders not being properly scrutinised and the erosion of the effectiveness of the system (see chapter 6).

A small number of submissions argued that the current accreditation scheme is working well and is understood by industry participants, and that changing it will create unnecessary confusion.

Some submissions opposed making ATOs subject to the consumer guarantee provisions of the Australian Consumer Law (ACL). Generally, these submissions argued that there are 'too many variables' involved in the delivery of pre-booked taxi services to hold ATOs responsible under these provisions, such as "traffic conditions, breakdowns [and] disputes as to whether the taxi has actually arrived and already left".[5]

Based on its experience in dealing with complaints about the transport system in Victoria, the Public Transport Ombudsman suggested improvements and clarifications to several recommendations, observing that the "the taxi industry has a significant amount of work to complete with respect to developing and implementing effective internal complaint handling processes and reporting mechanisms".[6]

While supporting a more streamlined system, the Victorian Equal Opportunity and Human Rights Commission urged the inclusion of public reporting on compliance with any new standards.

9.3 Inquiry's response to submissions

9.3.1 Empowering consumers

The inquiry notes that its recommendations to improve consumer information and complaints services are supported by most industry participants, albeit with some reservations.

The inquiry acknowledges that privacy concerns will need to be addressed in setting up the Public Register but rejects the assertion made in some submissions that these concerns mean that the register should not be established. The information proposed for the register is not personal in nature and the purpose of the register is to bring this information together in one accessible place so that consumers can easily and quickly identify service providers.

4 VTA submission L179, p. 28

5 Anonymous submission E466, p. 38

6 Public Transport Ombudsman submission E253, p. 5

The inquiry notes that the register is just one measure the TSC can take to improve the information available to consumers and the industry. As discussed in the Draft Report, the TSC could also publish regular updates to industry about market conditions, provide examples of innovation in taxi and hire car services, and publish performance measures to assist consumers to make more informed choices. The inquiry strongly disagrees with those submissions arguing against the regulator adopting a more consumer-focused role. The inquiry considers it appropriate and desirable that the regulator benchmark its performance not only against taxi industry expectations and perceptions, but also against community standards and customer expectations.

In line with its approach to move away from prescriptive regulations and place greater responsibility on service providers, the inquiry continues to view ATOs and permit holders as being primarily responsible for handling complaints, with oversight provided by the TSC. The TSC should also have the power to deal with unresolved complaints and to fine ATOs and individual operators who fail to deal satisfactorily with the complaints they receive.

9.3.2 A new system of approval and responsibility for service

The inquiry's intention continues to be that, over time, the new permit system will increase the number of owner-permit holders in the industry, clearly fix responsibility for service delivery at the permit holder (operator) level and clarify that existing licences (conventional and WATs) that can be assigned are held for investment purposes only, not for directly operating a taxi or PBO.

Other than recommending some minimum requirements, the inquiry has not set out new detailed service standards, believing this is appropriately the role of the regulator. However, the inquiry accepts that improvements can be made to strengthen its recommendations in a number of areas and has made modifications to this end.

In relation to concerns about monitoring independent operators (particularly in the absence of mandatory network affiliation), the inquiry notes comments from industry participants that existing networks do not feel empowered under the current regulatory framework to monitor the quality of drivers and vehicles. Nonetheless, the inquiry acknowledges that the quality of service delivered by independent operators may become an issue in the proposed new framework where affiliated vehicles will be subjected to a higher degree of focus from their ATOs. The proposed reforms offer a number of measures designed to ensure proper scrutiny of independent operators (including better customer information in taxi vehicles and the Public Register of industry participants). The inquiry expects that independent operators will also be a major focus of the TSC's compliance activities and that the greater responsibility placed on ATOs under the new scheme will free up some of the regulator's resources to ensure the effectiveness of this focus.

The inquiry also considers that the market will play a role in monitoring the performance of independent operators, as operators will need to attract their own customer base in order to maintain a supply of pre-booked work and will have to provide a service that meets their customers' expectations.

In relation to concerns about applying the Australian Consumer Law to ATOs, the inquiry accepts that further work will be needed to ensure the effectiveness of such an approach. The inquiry is recommending that the TSC consult with Consumer Affairs Victoria on the application of the consumer guarantee provisions of the ACL. The inquiry reiterates that its overriding intention in this regard – and in relation to the new permit system more broadly – is that ATOs should be more accountable to consumers for the service they provide. As with other service industries subject to consumer guarantee provisions, this does not mean that ATOs would be expected to meet unreasonable or unfair performance standards.

9.4 Final recommendations

Public register of industry participants

7.1 The Taxi Services Commission should establish a Public Register of industry participants and make the register available on its website. The register should comprise the names of all approved drivers, permit holders and Authorised Taxi Organisations in the commercial passenger vehicle industry and give information about their business contact details, the services they operate (such as taxis, PBOs and/or WATs) and the numbers of vehicles attached to their permit. The Public Register should be updated in real time as new entrants are granted permits and/or issued licences.

7.2 Requirements for in-vehicle information (such as windshield stickers, placards and other signage) should be compatible with smartphone technology, such as the inclusion of a barcode that can be scanned by mobile phones and other portable devices. The Taxi Services Commission should take steps to ensure that, through this technology, passengers have direct access to the Public Register from the vehicle and, over time, access to information about service performance and driver quality.

Improving information and complaints services

7.3 The Taxi Services Commission should take a lead role in providing information to passengers about new services and other strategies that enhance consumer awareness and choice. This should include, for example, an education campaign on how to book PBO cabs, identify approved PBO cabs and report illegal operators, as well as the rights and obligations of consumers and drivers at taxi ranks. The Commission should undertake community awareness and education campaigns in all practical media platforms to all demographics of the Victorian community. This will ensure passengers have a full understanding of their rights and responsibilities under the law and how to access information about taxi and hire car services.

7.4 The Taxi Services Commission should conduct consumer research, including 'mystery shopper' inspections of services and waiting time surveys, on a regular basis and publish the results on its website.

7.5 Complaints about service delivery should be primarily the responsibility of service providers (that is, Authorised Taxi Organisations and permit holders) who will need to have appropriate procedures in place for dealing with complaints that are readily accessible to all members of the community. The Taxi Services Commission should monitor and report on the industry's complaints management performance and work cooperatively with Authorised Taxi Organisations to achieve desired performance outcomes, and publish results on its website.

7.6 The Taxi Services Commission should have clear and transparent policies and procedures relating to complaints about its own performance.

A new system of approval and responsibility

8.1 The current taxi industry accreditation scheme, which requires the accreditation of licence holders, operators and Network Service Providers, should be replaced with a new and more streamlined regulatory process that:

- Removes accreditation for licence holders
- Replaces accreditation of operators with a permit system
- Replaces accreditation of Network Service Providers with a more limited approval process for Authorised Taxi Organisations.

8.2 Existing taxi licence holders who have assigned their licence to an accredited operator under the current scheme should be permitted to continue to do so and should not be required to obtain a permit when continuing or renewing assignments. Licence holders and any relevant parties under the licence will be required to maintain up-to-date basic details (such as a name and business contact details) with the Taxi Services Commission, for the Public Register (Recommendation 7.1).

8.3 Persons who have obtained accreditation as a taxi operator or who have been granted a hire car licence under the existing scheme should be deemed to meet the new requirements and be issued with permit/s automatically.

8.4 Under the new approach, a permit should be issued to applicants who wish to operate a taxi and/or hire car service and who satisfy the requirements of a character check (including a proof of identity and national police check). Permit holders, once approved, should be able to purchase any number of taxi and/or hire car licences and registrations as they wish.

8.5 Permit holders should not be able to assign the rights of any new licences they purchase that are issued directly from the Taxi Services Commission. Therefore, they will be responsible for meeting the service standards applicable to their vehicles and the drivers they engage.

8.6 Service responsibilities that are currently imposed on licensees, operators and Network Service Providers (under legislation, regulation and licence conditions) and under the taxi industry accreditation scheme (via accreditation regulations, conditions and Business and Service Standards) should be streamlined and duplication removed. A Working Group comprising representatives of the Department of Transport, the Taxi Services Commission and industry representatives should be established as soon as possible to ensure this work is given high priority.

8.7 In addition to the entry requirements for Authorised Taxi Organisations outlined in Recommendation 4.2, minimum operating rules set out in regulation for Authorised Taxi Organisations should include that they:

- Actively monitor the performance of affiliated permit holders and drivers to ensure they adhere to appropriate safety and service standards
- Implement customer complaint handling procedures that are in line with the Australian standard AS ISO 10002-2006
- Implement disciplinary procedures in relation to permit holders and/or drivers who fail to adhere to designated standards
- Provide specified service delivery data to the Taxi Services Commission (for example, in relation to booking performance, fares, driver infringements and complaints) on all booked, rank and hail work provided by their affiliated fleet.

Legislation should make clear the penalties, including fines, that apply for failure to comply with the minimum operating rules.

8.8 Authorised Taxi Organisations should be made subject to the consumer guarantee provisions of the Australian Consumer Law (ACL). The Taxi Services Commission should liaise closely with the Director of Consumer Affairs on the application of the consumer guarantee provisions to Authorised Taxi Organisations and the enforcement of the ACL more generally in the taxi and hire car industries. The Commission, in conjunction with Consumer Affairs Victoria, should also provide clear advice to the taxi industry on compliance with the provisions of the ACL.

8.9 In addition to the requirements proposed in Recommendation 4.1, the regulatory requirements for permit holders who opt to operate independently (that is, not affiliated to an Authorised Taxi Organisation) should include that they:

- Implement customer complaint handling procedures
- Display their business name and telephone number prominently on the exterior and interior of their vehicles.

8.10 The Taxi Services Commission should, on a risk basis, focus a large part of its compliance activities in relation to service and safety performance on independent permit holders (given the absence of oversight by Authorised Taxi Organisations).

10 More accessible services

10.1 Inquiry's views in Draft Report

Taxi services play a vitally important role in the lives and wellbeing of many people with a disability. However, it became very clear during the inquiry's consultations, that people with a disability experience poor and unreliable taxi services more frequently and with more serious consequences than other taxi users in the community.

The inquiry's views about the accessibility of taxi services were informed by the many submissions, letters and comments from taxi users with a disability, their families, carers and advocates, and disability service providers. These inputs were complemented by the significant amount of data available in this area of taxi services, particularly in relation to taxi trips taken through the Multi Purpose Taxi Program (MPTP).

The inquiry noted that, while there have been real improvements in some areas, significant concerns remain about service quality.[1] In particular, poor reliability and long wait times remain widespread concerns for taxi users with a disability, especially those who use a wheelchair and require a Wheelchair Accessible Taxi (WAT). The performance of the metropolitan booking companies is seen as poor and many taxi users with a disability have lost confidence in the booking system, preferring to make their own arrangements with known drivers or secondary networks. These taxi users told the inquiry that this protects them from poor quality drivers who are discourteous, refuse short trips, communicate poorly or make them feel vulnerable and unsafe. The inquiry heard positive stories about a small number of regular drivers and secondary networks providing a very high quality of service to these taxi users.

Problems with the accessibility of vehicles for people with reduced mobility were also highlighted to the inquiry. In particular, the inquiry found that state and federal vehicle standards affect the use of better, more widely accessible WAT vehicles and, in some cases, more flexible regulation could benefit wheelchair users, non-wheelchair users and the viability of the taxi industry.

Many of the issues identified by people with a disability stem from the underlying problems within the taxi industry, including quantity restrictions on licences, poor driver quality and unnecessarily restrictive regulations. As noted elsewhere in this report, the current conditions and structures in the industry do not provide the right incentives for good customer service and people with a disability experience the effects more than most.

The inquiry noted that its recommendations to encourage more effective competition and put more responsibility on the industry for service performance will greatly benefit taxi users with reduced mobility. Nevertheless, the inquiry also recognised that the market alone is unlikely to provide a safe, reliable and affordable taxi service to more vulnerable users. There will always be a shortfall in services when social benefits exceed the commercial benefits and where some services are more expensive, time consuming or less profitable to deliver. Also, affordability can be a major barrier to accessibility. Accordingly, the inquiry considered that targeted government intervention to improve the accessibility of taxi services would need to continue.

The Draft Report assessed many of the current government interventions. It concluded that the accumulation of different regulations, grants, incentive payments and subsidies to support the provision of wheelchair taxis and subsidised taxi travel for consumers with a disability has become multi-layered, confusing, restrictive and in some cases, ineffective. The inquiry recommended reforms to reduce the complexity of these interventions and to improve the accessibility of taxi and hire car services.

In some areas, the inquiry considered that new solutions should be adopted. In particular, specific action was recommended to restore confidence in the use of WATs, especially in relation to bookings. The inquiry proposed the creation of a Central Booking System (CBS) for all WATs in the Greater Melbourne zone. This would offer WAT users the flexibility enjoyed by conventional taxi users and also spread WAT work more efficiently among the more than 500 WAT vehicles on metropolitan roads. Features of this service were suggested in the Draft Report, but the inquiry also asked the public and the industry for comments on what this system should offer and how it could best be delivered.

1 See chapter 15 of the Draft Report

The inquiry also recommended changes to the MPTP, including the expansion of the program's eligibility to people over the age of 80 who are no longer fit to drive and providing all MPTP members with a Public Transport Access Travel Pass. More affordable travel would also be provided as a result of the inquiry's reforms to allow more flexible use of taxis, including share rides and taxi-buses.

Draft recommendations

The inquiry made 13 recommendations specifically directed towards improving the accessibility of taxi services.

- A Central Booking Service should be established for the Greater Melbourne zone to provide easier, more reliable booking of wheelchair accessible taxis.
- The Central Booking Service should provide a common phone number for users to book a wheelchair accessible taxi. The services should be connected to all wheelchair accessible taxi vehicles operating in the zone in order to pass confirmed bookings and estimated wait times seamlessly to customers.
- It should be mandatory for all wheelchair accessible taxi vehicles to be affiliated to the Central Booking Service and to accept bookings from that service. Wheelchair accessible taxi permit holders should be free to choose to affiliate to an Authorised Taxi Organisation as well, but should be required to always prioritise wheelchair accessible taxi bookings they receive from the central service.
- The Central Booking Service should operate under contract to the Taxi Services Commission and be required to provide performance data on a regular basis. The Taxi Services Commission should regularly report the performance results of the Central Booking Service.
- The current contract between the Department of Transport and major network service providers in the Greater Melbourne zone for the wheelchair accessible taxi Performance Based Booking System should be terminated and incentive payments made under that contract redirected to fund the central booking system.
- Current arrangements under the wheelchair accessible taxi Performance Based Booking Service in Urban, Regional and Country zones should continue for the immediate future and be reviewed by the Taxi Services Commission in light of changes in market structure in these zones over time.
- The Multi Purpose Taxi Program should be expanded to provide the subsidy to individuals aged 80 years or over (subject to a means test) who have their private vehicle driving licences suspended by VicRoads as a result of a fitness to drive assessment. In addition, if the scheme is extended to people aged over 80 whose licence is suspended, the inquiry is interested in comments on whether this should also include those who voluntarily offer to have their licences suspended or have them lapse, and those aged over 80 years who have not got a licence or access to a vehicle.
- The $16.50 card replacement fee currently charged to Multi Purpose Taxi Program members should be reduced to $8, with provision to be waived in particular cases of hardship.
- All Multi Purpose Taxi Program members should be provided with a Public Transport Access Travel Pass, providing them with fully subsidised travel on Melbourne metropolitan trains, trams and buses, regional town buses and other regional transport services contracted by the Department of Transport.
- The wheelchair accessible taxi vehicle subsidy scheme currently available only to country and regional operators should be retained. The subsidy should be targeted specifically to applicants who can demonstrate a need for a wheelchair accessible taxi service where other public transport services are limited or not available.
- Current licence conditions for all taxis that are wheelchair accessible should be aligned, including that they are accountable for meeting minimum performance obligations in the carriage of people in wheelchairs.
- Only high-occupancy vehicles should be required to have space for two wheelchairs.
- The Department of Transport, with input from the Taxi Services Commission, should work with other government departments, including the Departments of Premier and Cabinet, Treasury and Finance, Planning and Community Development and Human Services, to consider how the Multi Purpose Taxi Program subsidy can best be targeted in future, in the context of the Victorian Government's recently commenced review of the Community Transport Program and the Federal Government's announced intentions for a National Disability Insurance Scheme.

10.2 Issues raised in submissions

Most submissions were supportive of the draft recommendations aimed at improving the accessibility of taxi services. This includes those submissions that were opposed to the proposed changes to licensing and other proposals for industry reform.

Interestingly, almost all submissions from people with a disability or advocacy groups were supportive of both the inquiry's specific accessibility recommendation as well as the wider, more fundamental reforms to the taxi and hire car industry. Many considered that changes in areas such as licensing, driver income and working conditions, and network affiliation rules would be important steps in achieving real and sustainable reform. For example, the Victorian Council of Social Services (VCOSS) noted that:

> *…achieving lasting reform requires 'root-and-branch' changes that rely on political will and technical expertise to implement*…[and VCOSS]…*especially support the recommendations that increase the supply, competitiveness and accountability of taxi services.*[2]

The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) stated:

> *The Draft Report is a positive step towards creating a safer, more accountable and accessible taxi service for all Victorians and for people with disabilities.*[3]

The inquiry also attended a forum co-hosted by the Disability Advocacy Resource Centre (DARU) and VCOSS in July 2012 to hear feedback on the Draft Report and recommendations from taxi users with a disability. A report of the forum, *The responses of taxi users,* was provided to the inquiry.[4]

This chapter focuses primarily on responses to the draft recommendations relating to accessibility, but also on some other recommendations that respondents feel could be strengthened, clarified or altered to improve outcomes for taxi users with mobility disadvantages. Comments made by or in relation to taxi users with a disability about the inquiry's more general recommendations are included in the relevant sections of this report.

10.2.1 Central Booking Service

There was strong support in submissions for the introduction of a CBS. WAT users who attended the DARU-VCOSS forum also endorsed the CBS, believing that it would improve unacceptable taxi wait times for WAT users, make booking easier for these consumers and improve service accountability through better tracking, monitoring and compliance measures.

Submissions and comments from wheelchair users and advocacy groups also provided guidance on the specific features an effective CBS should have.

Some respondents suggested including some conventional taxis in the CBS, with drivers experienced in assisting people with mobility disadvantage. At the inquiry's hearings, VCOSS proposed that the CBS "should be a booking system for accessibility [more broadly], rather than solely for WAT users".[5]

A number of concerns about the CBS were raised with the inquiry in submissions, hearings and the DARU-VCOSS forum:

- Past attempts at a CBS have failed, so the features of a new service need to be carefully designed to avoid the problems with the previous models
- Current service levels are so poor that it will take some time to build confidence with the CBS
- Individuals should still be able to book a WAT directly with a preferred driver
- The CBS should not be responsible for deploying vehicles for other purposes (such as high occupancy vehicles).

2 VCOSS submission E494, p. 3

3 VEOHRC submission E349, p.12

4 This report is available from the Documents page of the VCOSS website: http://vcoss.org.au

5 TII hearings, submission by Ms Carolyn Atkins and Mr Llewellyn Reynders, VCOSS,13 August 2012

- The CBS should not be vertically integrated (that is, the service should not operate or own any WAT licences in the fleet and should be independent and transparent in its operations).

Scope, which has a long history transporting people with a disability, stated that they would like an active role in the operation of the CBS:

> *It is our belief that transporting people in wheelchairs (as we do) poses the most challenges of any group of people with disabilities. As such, we feel that getting it right with this group will improve access to centrally-booked taxis for many others.*[6]

Some industry participants supported a CBS. The Zebra Alliance, a consortium of new WAT licence owners and operators, saw benefits for drivers who do not have private clients and currently receive very few wheelchair jobs from their networks. In the Alliance's view:

> *…the recommendation to introduce a central booking system is an excellent idea, provided such a system will lower network (radio) access costs to drivers. Currently, network access costs are between $500 - $600 per month. This is a considerable amount of money when one takes into account the low number of wheelchair accessible jobs Zebra Alliance members get through the current network* [as few as three per month].[7]

TISV also supported a CBS, noting that such a service should have the authority to direct WAT taxi drivers to undertake specific jobs or face penalties for refusing to do so. The VTA indicated that it was unable to form a view about the proposal without further information, but noted that it was not opposed to the idea. Black Cabs Combined (13CABS) agreed with the recommendation for a CBS.[8] At the inquiry's hearings, Mr Andrew Gilmartin of Silvertop Taxis stated noted that the concept had "failed miserably in the past…and…should only be considered when some truly detailed modelling demonstrates advantages and viability for all the parties concerned".[9]

Frankston Radio Cabs strongly opposed a CBS, arguing that they already provide an excellent service in their area and that removing WAT bookings from their service offerings would be detrimental to both the community and their viability. At the inquiry's hearings, Mr Kevin Dunn stated:

> *We find it difficult to understand when we're operating a service of the quality that we currently do why our WATs vehicles would be moved away from us to a centralised booking service… If in fact, as I said, we lost 14 vehicles out of our 64, the financial impact upon the company would be such that we wouldn't survive.*[10]

Mr Dunn explained that the financial impact would be due to both the expected loss in affiliation fees (because the WATs would chose not to affiliate to Frankston Radio Cabs) and the removal of the performance based booking system, which he explained is an integral part of how they now operate.

Dandenong Taxis also opposed a CBS for several reasons, including their belief that affiliation and technology costs will be higher; disruption of the service they currently provide (which they considered offers a more personalised and specialised service); the existence of long-established private bookings; the need for WATs to also do non-WAT work; and the impossibility of policing WAT vehicles.

10.2.2 Wheelchair Accessible Taxi licences

A small number of submissions made comments specific to the price proposed for WAT licences. In addition to operator concerns discussed in chapter 3, VCOSS and the VEOHRC raised doubts about whether there will continue to be sufficient WATs available if the proposed annual licence price in the Metropolitan zone is only 20 per cent less expensive than the proposed price for conventional licences. These organisations were concerned that current WAT licence holders and operators might discard their WAT licence for a conventional taxi licence, especially those owners of the recently released 330 metropolitan 10-year WAT licences.

6 Scope submission E346, p. 45

7 Zebra Alliance submission, E348, p. 2

8 See TISV, VTA and Black Cabs Combined submissions.

9 TII hearings, submission by Mr Andrew Gilmartin, Silvertop Taxis, 14 August 2012

10 TII hearings, submission by Mr Kevin Dunn, Frankston Radio Cabs, 13 August 2012

VCOSS suggested that:

> *…if insufficient WAT vehicles are supplied (and particularly if supply falls), the TSC or other body (such as the Essential Services Commission) should be empowered to lower price levels to maintain fleet numbers.*[11]

10.2.3 More diverse and better vehicles

Many submissions welcomed the inquiry's recommendations to encourage better quality and more accessible taxi vehicles. Individual WAT users reaffirmed that the WAT vehicles currently in use are uncomfortable, inaccessible and sometimes unsafe.[12] Scope agreed that the proposed change to the Australian Disability Standards for Accessible Public Transport (DSAPT) to require a three dimensional allocated space for wheelchairs in WATs is overly prescriptive, noting that:

> *…the 'rectangular prism' severely restricts the types of vehicles that can be used as WATs and often leads to expensive modifications to standard vehicles especially to conform with the ceiling height, e.g. lowering floors. Minor intrusions into the ceiling space of the rectangular prism, especially at the front and rear edges of the prism, pose no real risk to safety to people travelling in wheelchairs.*[13]

The Victorian Disability Advisory Council (VDAC) supported not adopting the standard in favour of more flexible and outcomes-focused regulation.

The inquiry's recommendation to promote the operation of purpose-built taxi vehicles in the conventional taxi and WAT fleets was strongly supported in most submissions.[14] The inquiry was most interested in the thoughts of people with a disability and their advocates on this matter. Participants in the DARU-VCOSS forum expressed support for two approaches to improving taxi accessibility: incorporating a greater range of vehicles into the taxi fleet and intentionally producing a 'universally accessible taxi' that would progressively become the standard model for the entire fleet.

The VDAC supported removing barriers to allow superior design, purpose-built, universally accessible taxi vehicles to be used in Australia.[15] As noted in chapter 5, Scope observed that while London taxis, for example, do not meet all DSAPT, their design could be used by many customers and their acceptance would increase the number of transport options available to people with a disability.[16]

VCOSS raised some concerns, especially about the potential for consumer confusion and 'non-compliance creep' if non-standard vehicles are allowed to carry passengers with mobility aids.[17] They considered that the taxi industry does not have the willingness to pursue accessibility outcomes to justify any move away from stringent technical compliance. They were also concerned that the proposal to allow non-DSAPT compliant vehicles to carry wheelchair users would introduce additional uncertainty for consumers – particularly those who are not able to access the smaller sized London black cabs and others with smaller passenger space dimensions. They also noted a risk that the introduction of a competing vehicle type may undermine the availability of DSAPT-compliant vehicles and encourage development of an "'accessible taxi' that did not meet the more stringent DSAPT requirement".[18]

VCOSS recommended that any derogation from the DSAPT should only occur with the general consent of consumers with disabilities and after the full implications of any change is considered.[19]

10.2.4 Driver training

Driver training was discussed in several submissions from disability advocacy groups and was considered by many to be an integral means by which service standards can improve.[20] Most agreed with the principle behind the inquiry's

11 VCOSS submission E494, p.15
12 See report of DARU-VCOSS forum, 13 July 2012, Op. Cit.
13 Scope submission E346, p. 14
14 Issues associated with this recommendation are discussed in greater detail in chapter 5
15 VDAC submission L186, p. 5
16 Scope submission E346, p. 14
17 VCOSS submission E494, p. 5
18 Ibid, p. 6
19 Ibid, p. 6

recommendation for independent testing of drivers in place of compulsory industry-delivered training; however, there was concern from disability advocates that it would be difficult to test disability awareness in a 'pen and paper' exam.[21] VEOHRC suggested that the Knowledge exam include a unit on disability awareness training and lamented the absence in the Draft Report of "a firm commitment to independent, mandatory disability awareness training for all taxi drivers".[22]

There was strong support for improving the delivery of disability awareness training, including through the design and delivery of training by people with a disability.[23] For example, Scope stated:

> *We would hope that disability awareness training would also be delivered by someone with a broad range of direct experience supporting people with disabilities. It is our understanding that this is currently not the case.*[24]

There was some concern that the recommendations did not address the lack of disability awareness of existing drivers.[25] VEOHRC considered that:

> *To ensure a truly accessible and quality taxi system … disability awareness training should be provided to all taxi drivers both at the point of qualification and also as refresher training at a later stage.*[26]

Finally, concerns were raised in a number of submissions that a high standard of disability awareness training should also be required for drivers outside Melbourne and for drivers of PBO services.

10.2.5 The Multi Purpose Taxi Program

There was support from the taxi industry, community groups and people with a disability for the expansion of the MPTP to people over 80 who can no longer drive. While strongly endorsing the recommendation, VCOSS, the VEOHRC and Blind Citizens Australia suggested that the proposed eligibility age of 80 is too high and that consideration should be given to extending eligibility to people who have relinquished their licences voluntarily or have never driven, and those suffering a temporary disability as the result of an accident or illness.

There was a mixed response to the proposal to provide a Public Transport Access Travel Pass to MPTP members: some submissions endorsed the recommendation; others felt that it was counter to the current MPTP eligibility criteria that users must be unable to access public transport. Some submissions noted that more work needed to be done to ensure the two schemes aligned effectively, with one submission suggesting the schemes could be rationalised into a single pass or product. A number of industry participants were concerned it would take work away from the industry.

Other concerns raised in relation to the inquiry's MPTP recommendations were:

- The VEOHRC noted that a strong case exists for future reform and re-structure of the MPTP in relation to people with a disability who are employed, and that this issue had not been addressed in the inquiry's recommendations
- The VDAC noted that that, while the Draft Report clearly stated that 'taxi travel is too expensive for some, even with the MPTP subsidy', there was no specific recommendation to redress this situation
- Scope and others urged the inquiry to recommend that no charge be incurred for replacement MPTP cards
- The VTA proposed that PBOs that are wheelchair accessible should have access to the MPTP
- Some submissions recommended that photo ID be required on MPTP cards to prevent fraudulent use
- The TISV considered that the MPTP is a 'social policy' matter for government and should not be financed by the sale of new taxi licences under any circumstances.

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20 Driver training is discussed in greater detail in chapter 7
21 VCOSS submission E494, p. 11
22 VEORHC submission E494, p. 13
23 See Scope, VCOSS and VDAC submissions
24 Scope submission E346, p. 25
25 See VCOSS and VEOHRC submissions
26 VEOHRC submission E494, p. 13

10.2.6 Other matters

The VTA suggested increasing the lifting fee to ensure that the first priority of WAT vehicles is providing service to the disability community, noting:

> *Anecdotal evidence indicates that 20 per cent of WATs undertake 80 per cent of the work required by these groups. If true, this is unacceptable. To offset this and to provide a further incentive for drivers to do this specialty work, the VTA suggests that the lifting fee be increased and the increase retained in full by the driver.*[27]

Zebra Alliance urged greater promotion of WATs to the general public, observing that many people "are resistant to using WATs, even when they are available" due to misconceptions they are exclusively for people who use wheelchairs, are more expensive than conventional taxis and using one may have an adverse impact on taxi users with wheelchairs.[28] This resistance has an impact on the income-earning capacity of WAT operators and drivers. Zebra Alliance also called for better promotion of the MPTP to ensure that wheelchair users hold the appropriate card to allow WAT drivers to receive the lifting fee.

10.3 Inquiry's response to submissions

The inquiry is encouraged by the strong positive feedback received about the draft recommendations from individuals with a disability and advocacy groups. As the inquiry has noted consistently, this group of taxi users has a large stake in the taxi industry and yet continues to experience significant problems with service quality, availability and accessibility.

10.3.1 Central Booking Service

The inquiry welcomes the many suggestions from taxi users and the industry about the possible features of a Central Booking Service. The inquiry also met with disability and transport service providers and technology developers to canvass ideas about how this service could operate in practice and the potential application of new and innovative technologies to support the efficiency and effectiveness of such a service. The inquiry agrees with submissions that call for further consultation on the design and implementation of the CBS and is recommending the creation of an Advisory Group, comprising representatives of the disability sector, industry and the TSC, to commence work immediately on developing a detailed proposal for the CBS.

While not making specific recommendations about the operation of the CBS, the inquiry considers that a number of features are essential to the effectiveness of such a service:

- It should be mandatory for all WAT vehicles to be affiliated to the CBS and to accept bookings from that service.
- WAT permit holders should be allowed to affiliate to an Authorised Taxi Organisation as well as the CBS, but should be required to always prioritise WAT bookings they receive from the central service.
- The CBS should have sufficient independence and clarity of purpose to prioritise the needs of customers over other purposes.
- The CBS should be capable of closely monitoring the performance of drivers and operators in the fleet, with the ability to report and remove those who engage in poor conduct. It should have the ability to respond appropriately and promptly to complaints.
- The CBS should offer a variety of booking options to customers using different technologies (such as phone, text messages, smart phone applications and the internet).
- The service should be able to guarantee bookings and provide an estimated time of arrival.
- The CBS should be customer responsive and aim to meet the needs of people with various disabilities. It should have the ability to retain customer information (such as preferred driver or vehicle and special assistance requirements).

27 VTA submission L179, p. 30

28 Zebra Alliance submission E358, p. 4

- The service should employ staff who are trained in disability awareness and communication, and include people with a disability and/or service providers from the disability sector in its management structure. The CBS should also play a role in educating drivers in the WAT fleet.
- The service should aim to achieve efficiencies and savings for customers (as well as maximising the efficient use of WATs across the fleet) through the optimisation of vehicle carrying capacity.
- The service's performance should be comprehensively assessed and the results of this assessment made available to the Victorian public.

In response to those submissions that took issue with making the CBS compulsory for all WATs and stated that it was contrary to the inquiry's broader directions, the inquiry reiterates that market failure is apparent in this segment of the industry – largely due to issues of scale and coordination difficulties. Compulsory affiliation is necessary to achieve service efficiency and coverage and to take full advantage of the number of WATs currently licensed in the metropolitan area.

The inquiry notes that an effective, efficient CBS will benefit WAT drivers and operators, as well as customers. A reliable, high quality booking service will return confidence to WAT users and increase demand for WATs, generating more work for WAT vehicles. Allowing WAT operators to affiliate with another ATO will enable them to supplement WAT work with conventional jobs or high occupancy jobs when demand from the CBS is low.

The inquiry rejects criticisms of the CBS proposal that were based on little more than the assertion that 'it didn't work last time'. The schemes set up in the 1980s and 1990s relied on much less sophisticated technology and a much smaller fleet of WATs. As noted in the inquiry's Draft Report, their failure can also be attributed in part to a lack of commitment by the taxi networks. With sufficient oversight, today's much-improved technological offerings for bookings, dispatch and GPS tracking should support a Central Booking Service that benefits all parties.

The inquiry notes that many of the submissions critical of the CBS appeared to misunderstand the proposal, with some expressing concern that taxi users would be forced to give up their private arrangements with trusted drivers. To be clear, the inquiry reiterates that:

- Individuals should be able to book a WAT privately with a known driver; and
- WATs should continue to be able to affiliate to another network and do non-WAT work when they have not been booked through the CBS.

Finally, the inquiry considers that the CBS should apply only to WATs licensed to operate in the proposed Metropolitan zone (see chapter 3). This means that WATs operating in outer metropolitan areas such as Dandenong and Frankston would not be required to affiliate with the CBS. The inquiry recognises that the timeliness of pre-booked and ready-to-ride WAT services provided by Dandenong Taxis and Frankston Radio Cabs is better than that provided by the metropolitan networks. However, data from the Performance Based Booking System does not support the claims by these networks of their WAT services being among "the best"[29] and the inquiry considers that improvements should continue to be made to ensure that communities in Frankston, Dandenong, other outer metropolitan areas and large regional cities have access to a more reliable WAT service.

The inquiry also notes that excluding Frankston and Dandenong (in particular) from the Metropolitan zone will enable the TSC to benchmark the success of the new CBS against other WAT services.

10.3.2 Wheelchair Accessible Taxi licences

The inquiry's response to concerns that the proposed WAT licence price is too high is set out in Chapter 3. The inquiry notes that there are additional incentives available to WAT operators, networks and drivers that should continue to encourage WAT provision. This includes the lifting fee, vehicle subsidies in Country and Regional zones, and – in the future – a Central Booking Service that will efficiently allocate wheelchair jobs among the fleet.

The inquiry also notes that existing WAT licence holders have invested heavily in their WAT vehicles and are unlikely to step away from the industry without making a return. In this context, the effects of the new licensing policy will take

29 Frankston Radio Cabs submission L119, p. 21

time to play out. This will give the TSC time to closely monitor WAT numbers in Victorian fleets and implement measures if the new licensing regime results in a reduction in the proportion of WATs.

10.3.3 More diverse and better vehicles

The inquiry notes that there is some confusion around the intent and effect of its draft recommendations covering vehicle accessibility standards. The inquiry has modified its final recommendations to clarify that it is not recommending changing or disregarding the Disability Standards for Accessible Transport (DSAPT). All current and future WATs (as defined under DSAPT) should abide by the current DSAPT and the revised DSAPT, which take effect on 1 January 2013.

The inquiry does not consider that its recommendation to reject the proposed use of the three-dimensional prism in the DSAPT will reduce the accessibility of vehicles. As discussed in the Draft Report, this restrictive standard simply limits the vehicles able to serve as WATs and increases the conversion costs for operators. Continuing to allow state regulators to use some judgement in applying the DSAPT dimensions will enable greater variety and comfort in the WAT fleet.

In relation to allowing purpose-built accessible vehicles that do not meet the DSAPT to operate as conventional taxis and WATs, the inquiry agrees that ongoing consultation with wheelchair users is critical to ensuring continued community support and to avoid confusion among users. As discussed in chapter 5, the inquiry's intention is to enable purpose-built vehicles that currently exist overseas to service individuals who use wheelchairs if those individuals choose to travel in these vehicles. These vehicles would exist in addition to the current DSAPT-compliant vehicles and should in no way undermine the availability of DSAPT-compliant vehicles. The inquiry considers that higher quality and better designed wheelchair accessible vehicles should not be made unavailable to wheelchair users in Victoria simply because of the DSAPT. The DSAPT are important to ensure that an adequate fleet of WATs can be accessed by the majority of wheelchair users, but additional offerings with different levels of accessibility should not be blocked by the application of these standards.

The inquiry agrees that communication will be important, as wheelchair users need to understand that non-DSAPT approved vehicles may not have the same allocated space as the current fleet. The same safety standards regarding restraints should apply, but the suitability of other features could be left to the judgement of the individual operator.

10.3.4 Driver training

As discussed in chapter 7, the inquiry agrees that a 'pen and paper' exam is insufficient to properly test taxi driver applicants on their disability awareness, ability to communicate and provide assistance to people with a mobility disadvantage. Accordingly, the inquiry is recommending that the independent Knowledge exams include on-site testing with practical customer service components. The content of this test should be developed in consultation with the disability community and advocacy agencies. The inquiry expects the testing to be rigorous and to require a broad awareness of disability and a driver's obligations under the national *Disability Discrimination Act*.

10.3.5 The Multi Purpose Taxi Program

The inquiry notes the views of those who did not support the provision of the Public Transport Access Travel Pass to all MPTP members. The inquiry considers that public transport is gradually becoming more accessible and people with a disability should be encouraged and supported to make more affordable journeys if they can. The inquiry does not agree that this initiative will take work away from the taxi industry. In fact, if some individuals are able to combine public transport with taxis in order to make travel more affordable, they may even increase their use of taxis.

In relation to concerns about the structure and adequacy of the MPTP, the inquiry was limited in its scope to look beyond the current budget and design of the scheme. However, the inquiry does agree that there are areas where improvements to efficiency, choice, fairness and compatibility with other schemes could be made. In the context of the National Disability Insurance Scheme, the inquiry considers that these issues are best examined by an inter-governmental group with oversight of all relevant policy areas.

Finally, the inquiry agrees with calls that there should be no fee for replacing lost or broken MPTP cards, especially as the actual cost of replacement is small and the disincentive due to the inconvenience of losing a card is high.

10.4 Final recommendations

9.1 A Central Booking Service should be established for the Metropolitan zone to provide a more efficient and customer responsive booking service for wheelchair customers.

9.2 An Advisory Group comprising representatives of the disability sector (including Scope, LINK Community Transport and the Victorian Council of Social Service), users of wheelchair taxis and the Taxi Services Commission should commence work immediately on considering models for the design and operation of a Central Booking Service for wheelchair accessible taxis (WATs). The objective of the Advisory Group should be to consider the features of a Central Booking Service which will make it customer responsive and enable it to gain the confidence of the disability sector. With the assistance of the Advisory Group, the Taxi Services Commission should consult widely on potential models for the operation of a Central Booking Service for WATs before determining the best way forward.

9.3 It should be mandatory for all Metropolitan-zoned WAT vehicles to be affiliated to the Central Booking Service and to accept bookings from that service. WAT permit holders should be allowed to affiliate to an Authorised Taxi Organisation as well, but should be required to always prioritise WAT bookings they receive from the central service.

9.4 The Central Booking Service should work closely with the Taxi Services Commission and be required to provide performance data on a regular basis. The Taxi Services Commission should regularly report the performance results of the Central Booking Service.

9.5 The current contract between the Department of Transport and major Network Service Providers in the Metropolitan zone for the WAT Performance Based Booking System should be terminated and incentive payments made under that contract redirected to fund the Central Booking Service. The justification of the WAT Performance Based Booking Service in Urban, Regional and Country zones should be reviewed by the Taxi Services Commission in its first year of operation to assess whether the cost of the scheme is justified by improvements in booking performance.

9.6 The Multi Purpose Taxi Program (MPTP) should be expanded to provide the subsidy to individuals aged 80 years or over (subject to a means test) who have their private vehicle driving licences suspended by VicRoads as a result of a fitness to drive assessment.

9.7 All MPTP membership cards should include photo ID of the member to address fraudulent use of the program. The $16.50 card replacement fee currently charged to MPTP members should be abolished. All MPTP members should be provided with a Public Transport Access Travel Pass, which enables fully subsidised travel on Melbourne metropolitan trains, trams and buses, regional town buses and other regional transport services contracted by the Department of Transport. This may encourage greater use of increasingly accessible public transport services.

9.8 The WAT vehicle subsidy scheme currently available only to Country zone operators should be continued and extended also to include both Country and Regional zone permit holders (as per the new zoning arrangements set out in Recommendation 1.6).

9.9 Licence conditions for all WATs should be aligned and placed in regulation. Only high occupancy vehicles should be required to have space for two wheelchairs.

9.10 The Department of Transport, with input from the Taxi Services Commission, should work with other relevant government departments to consider how the MPTP subsidy can best be targeted in future, including the ability of the frail elderly to access the scheme and the impact of possible fare deregulation in various parts of the State. This is in the context of the Victorian Government's recently commenced review of the Community Transport Program, the Australian Government's announced intentions for a National Disability Insurance Scheme (NDIS) and Victoria's contribution to the NDIS.

11 Improved regulation and a more effective regulator

11.1 Inquiry's views in Draft Report

As noted throughout the Draft Report and this Final Report, the inquiry considers that unduly restrictive and prescriptive regulation is at the heart of many of the taxi industry's difficulties. While there is an important role for regulation of the industry – especially in relation to safety and accessibility – the inquiry's view is that further piecemeal regulation will not lead to a sustained improvement in performance or secure the industry's long term future.

The inquiry's draft reforms aimed to generate a fundamental shift in the balance of regulation, with a much stronger emphasis on self-regulation and competition and a move away from burdensome government regulation. Under the inquiry's proposals, government regulation would become more outcomes-focused and less prescriptive; more responsibility would be placed on the industry for better service performance; and competition would be allowed to operate more effectively to enhance performance. The inquiry envisaged that one important outcome of this new approach would be a reduction in the 'red tape' compliance burden imposed on the industry through better targeted regulation and the removal of undesirable regulation.

Essential to the success of this approach is an effective, informed regulator. The Draft Report was critical of aspects of the performance of the current industry regulator, the Victorian Taxi Directorate (VTD). In particular, the inquiry found that the VTD's role lacks clarity and an appropriate degree of independence, and that the legislative framework in which the VTD operates does not provide for adequate transparency and accountability. The inquiry also noted that, while the VTD has improved many aspects of its operations in recent years, it remains constrained by inadequate governance arrangements and the difficulties associated with implementing a prescriptive and complex regulatory scheme. The VTD's effectiveness is also hampered by a lack of access to accurate industry information and operational data, and by having no comprehensive performance measurement framework across its major functions.

Overall, the inquiry found that the VTD has not been as effective as it should have been and has had only a limited impact on improving the industry's performance.

The inquiry also examined the legislation governing the new industry regulator, the Taxi Services Commission (TSC). The inquiry welcomed the establishment of the TSC as an independent body and made several recommendations designed to strengthen the regulator's impartiality, accountability and effectiveness. The inquiry also made recommendations to clarify and strengthen the TSC's governance arrangements. For example, the inquiry considered that, while the TSC will be an independent regulator, there should be the option for the Minister to direct the TSC. However, in the interests of good governance, the inquiry considered that any such direction should be documented and published.

The inquiry recognised the necessity of the TSC having access to reliable, contemporary data and information in order to make sound regulatory decisions.

The Draft Report noted that the use of licence conditions to regulate the industry had evolved in a largely ad hoc fashion and led to undesirable outcomes. The inquiry considered that there should be a rationalisation of licence conditions and a standardisation of these conditions where they deal with similar issues. These consistent requirements should be set out in regulation, not as licence conditions. Specific licence conditions should be reserved for specific circumstances and individual licence holders.

The inquiry urged a broader role for the new industry regulator in taking greater responsibility for assessing market conditions and providing information to the industry, consumers and government. The inquiry's view was that requiring the regulator to take into consideration the effect of its decisions on the industry's competitiveness would give the TSC the potential to deliver significant benefits to taxi and hire car users (through new services and greater choice in services) and to industry (through higher occupancy rates).

Draft recommendations

The inquiry made 23 recommendations designed to build an effective regulator with good governance arrangements, skilled and experienced people, appropriate funding and sound monitoring and enforcement practices.

More effective governance and regulation

- For its next phase as industry regulator, the Taxi Services Commission should have a concise and high level objective that gives it sufficient scope and flexibility to undertake a wide range of tasks associated with regulating the commercial passenger vehicle industry. This objective should be modelled along the following lines: 'In carrying out its functions, the Taxi Services Commission's objective is to promote the provision of customer friendly, competitive, efficient, safe and accessible commercial passenger vehicle services'.
- The Taxi Services Commission should report annually to the Victorian Parliament on its progress in implementing agreed reforms arising from the inquiry.
- The Taxi Services Commission's governance should comprise a multi-member panel of a lead Commissioner with capacity for up to two further Commissioners to be appointed. Appointments as Commissioners should be for a fixed term, with clear conditions on how these appointments can be terminated, preferably requiring the Minister to make the proposition before Parliament. The legislation should stipulate the skills and experience (skills considered more relevant are economic, competition, regulation and legal skills) required for a Commissioner. Appointment of the Taxi Services Commission's Chief Executive Officer should be on the recommendation of the lead Commissioner.
- There should be regular (every five years in the first instance) reviews of the regulatory framework and the performance of the regulator to ensure that the objectives of the regulation are being attained and are still relevant. This should be carried out in an open and transparent manner.
- The *Transport Integration Act 2010* may impose onerous obligations on small specialist regulators such as the Taxi Services Commission. Consideration should be given as to whether it is appropriate to amend the Transport Integration Act to give specialist regulators the option to have regard to Part 2 of the *Transport Integration Act.*
- All regulation affecting the commercial passenger vehicle industry should be examined to ensure that, as far as possible, it is outcomes-based rather than prescriptive, enabling scope for regulated entities to find the most efficient ways of achieving the outcomes required and for the Taxi Services Commission to implement risk-based practice decisions in order to achieve the set objectives. This should include:
  - All existing taxi and Pre-Booked Only cab licences should have, as far as possible, consistent requirements that are provided for in regulation. The use of licence conditions should be reserved for very specific circumstances and generally only apply to particular individual permit holders.
  - The review of regulation should ensure that there are no unnecessary regulatory impediments to the use of new online and smartphone applications to provide taxi and Pre-Booked Only cab booking or payment services.

Powers

- The Taxi Services Commission should have flexible powers to ensure compliance with legislation, including powers to take civil and criminal action as appropriate.
- The Taxi Services Commission should be empowered to undertake investigations and reviews around some specific aspects of regulation, as necessary to enhance and pursue its objectives or as directed by the Minister.
- The Taxi Services Commission should have the power to issue guidelines and develop codes of conduct.
- The Taxi Services Commission should be provided with effective information gathering power, including the requirement for all taxi permit holders to provide data on trips and shifts direct from the taximeter to the Taxi Services Commission on a continuous basis, and for Authorised Taxi Organisations to provide specified service delivery data on a regular basis.

Improved regulatory practices

- The Taxi Services Commission should formulate and apply a compliance monitoring strategy that:
  - Is based on transparent risk assessment methodologies
  - Can be implemented with available resources and with an acceptable level of residual risk
  - Recognises the costs it imposes on regulated entities
  - Is responsive to changing regulatory risks

  - Is documented
  - Is publicised externally to industry and other stakeholders.

- The Taxi Services Commission should ensure that its enforcement responses to non-compliance are flexible and targeted at the highest priority risks posed by non-compliance. The Taxi Services Commission's enforcement actions should be graduated and based on the principles that they:
  - Are proportionate to the risks posed by non-compliance
  - Recognise the capacity and motivation of non-compliant entities to return to compliance
  - Signal the seriousness with which it regards the non-compliance.
- The Taxi Services Commission should develop and make public its rules, policies and guidelines for administering and enforcing regulations. The process of development of compliance policies should involve consultation with stakeholders and be conducted in a transparent manner.
- There should be a transparent and accessible internal Taxi Services Commission appeals process in relation to driver accreditation, permit holder approvals, Authorised Taxi Organisation approvals and disciplinary matters.

Consultation

- The Taxi Services Commission should broaden industry consultation and engagement approaches to ensure they are effective in assisting the industry and other stakeholders to make the adjustments required under the reforms, and to facilitate ongoing stakeholder contribution to regulatory practices.
- Formal memoranda of understanding should be implemented for the Taxi Services Commission's significant relationships with other regulators and statutory agencies such as the Essential Services Commission, Victoria Police and VicRoads.
- In addition, other agencies should consider improvements to their consultation and relationships with the Taxi Services Commission and the industry, including:
  - Victoria Police should consider better ways to inform its officers of commercial passenger vehicle offences, the role of the Taxi Services Commission in regulating the industry and the need for police and Taxi Services Commission staff to work together to improve compliance outcomes. Victoria Police should also consider overseas models of cooperation between the police and taxi drivers in the detection and reporting of crimes observed by drivers.
  - The Australian Competition and Consumer Commission should consider liaising much more closely with the Taxi Services Commission on competition issues within the commercial passenger vehicle industry in Victoria.
  - Local governments should be given the opportunity to provide more formal and regular input to the Taxi Services Commission on managing future requirements for taxi ranks and rank congestion.
  - Melbourne Airport terminal operators should instigate more formal and regular liaison with the industry.
- The Taxi Services Commission should ensure that it has a strong presence in both metropolitan and regional Victoria, focusing on more effective consultation and education with the industry and increased transparency of its regulatory activities.
- More serious efforts should be undertaken to achieve harmonisation of taxi and hire car regulation between border cities, including if necessary devolving responsibility to local governments.

Funding

- The Taxi Services Commission should be funded to a level that allows it to discharge its functions and responsibilities. In the short term, as has been forecast by the Taxi Services Commission's establishing legislation, the funding allocation currently provided to the Victorian Taxi Directorate should transfer to the Taxi Services Commission when it assumes the operational regulator role.
- Consideration should be given to the funding model required for the future, including the potential for an industry cost recovery approach. Consideration should also be given to providing the Taxi Services Commission with contingency funding for unforeseen court actions.
- The Taxi Services Commission's establishing legislation providing for transparency of funding should be retained.

- Revenue obtained from the sale of new taxi and Pre-Booked Only cab licences should be directed to industry reform and the delivery of better services to the community, including (but not limited to) supporting the implementation of measures proposed in the inquiry's recommendations:
  - Continued support for safe ranks
  - Expansion of the Multi Purpose Taxi Program to assist people aged 80 years and over who have had their private vehicle driver licence suspended by VicRoads
  - Provision of a Public Transport Access Travel Pass to Multi Purpose Taxi Program members
  - Continuing the wheelchair accessible taxi vehicle subsidy scheme
  - Establishment of the Central Booking Service in Greater Melbourne for wheelchair accessible taxis
  - Introducing the independent examination of Greater Melbourne taxi drivers
  - General funding of the Taxi Services Commission to ensure it is sufficiently resourced to undertake its task. A priority should be ensuring that the Taxi Services Commission's information and technology capabilities are adequate to allow it to produce industry performance intelligence, target regulatory and enforcement activities and, where possible, move to online forms and payments systems to reduce costs for regulated entities. A data warehouse capable of collecting, storing, analysing and reporting on all commercial passenger vehicle industry data provided from taximeters and Authorised Training Organisations, including Multi Purpose Taxi Program data, should be established in year one of the reform program.

11.2 Issues raised in submissions

The inquiry received relatively few comments on these draft recommendations. Generally, there was support for the direction of the inquiry's proposed improvements to the regulator and the regulatory framework, particularly the focus on reducing 'red tape' and allowing industry participants to determine for themselves the best way to meet prescribed outcomes.

Of those submissions making a comment on these aspects of the Draft Report, a number were concerned about the privacy implications of giving the TSC access to data directly from the taximeter or argued that collecting data through this method is unnecessary or impractical.

The VTA indicated its support for a more outcomes-focused regulator and made some suggestions for further strengthening the role of the new regulator. While supporting the concept of applying revenue from the sale of new licences to industry reform, TISV argued that 'social policy matters' should be excluded from this requirement. The VTA's view was that this revenue would be insufficient to support the full list of initiatives envisaged by the inquiry.

11.2.1 Inquiry's response to submissions

Noting that submissions were largely supportive of the draft recommendations covering the TSC and the proposed new regulatory framework, the inquiry's changes to these recommendations are mostly minor. The most significant changes are to the recommendations covering funding of the new regulator.

In relation to concerns raised about the data gathering powers of the TSC, the inquiry has already indicated in chapter 5 that it considers these concerns are misplaced and reflect a misunderstanding of the nature of the data being collected and the use to which it will be put by the regulator.

More broadly, since the Draft Report, the inquiry has firmed in its view that accurate, reliable and timely data will be the foundation for the ongoing success of the TSC. Collecting and analysing this data will:

- Enable policy makers to assess the success or otherwise of current regulations and policies, and to design and implement effective new policies
- Simplify the regulator's task by focusing attention on 'problem areas' and adopting a risk-based approach to compliance
- Allow consumers to compare performance between taxi networks and/or operators and foster greater competition
- Facilitate the integration of taxi and hire car services more fully with community and public transport services
- Gauge the ongoing performance of the industry and monitor the effects of industry changes

- Automate the collection and collation of data to avoid labour intensive and costly burdens on both the industry and the regulator, along with addressing poor data integrity
- Assess the effect of the inquiry's proposed reforms to ensure that these effects are positive
- Use longer term data to adjust policy settings as needed so that service delivery and safety is optimised.

The inquiry notes that collecting operational data has already provided useful information back to the industry and assisted with fine-tuning reform recommendations. For example, a key finding from the inquiry's data analysis was that around 70 per cent of all metropolitan trips are not booked through NSPs, with the share of rank and hail work at some times exceeding 80 per cent of trips.[1] This was new and useful information for many industry participants. It highlighted to many taxi operators the usefulness of this type of information and reinforced the ongoing concerns some operators have with obtaining data generated in the course of their daily taxi operations from their NSPs. TISV has urged the inquiry to strengthen its recommendations in this area to ensure that the TSC can provide operators with access to their own operational data along with aggregated comparative data.[2] While not making a specific recommendation to this effect, the inquiry suggests the new regulator consult with TISV and taxi operators to determine how it can best assist in meeting their data requirements.

Data will still be required from ATOs to enable monitoring and publication of the performance of the booking aspect of taxi and hire car services. It is clear to the inquiry that the regulator will need system-wide data to understand industry trends, to regulate fares appropriately and to monitor the operation of zones to ensure they match consumer needs.

The inquiry has strengthened its recommendations relating to future funding of the TSC, proposing that – in the longer term – industry-specific regulation should be funded by the industry itself through an annual charge. This approach is in line with the approaches adopted in other industries. However, the inquiry stresses that this is a longer term goal. Before such a policy can be implemented, it would be necessary to clearly define the specific aspects of regulation that should be funded in this way and how the funding arrangements would operate in practice: for example, which parties would pay and how these payments would be collected. Whether fares are regulated or not, it should also be clear that passing on these regulatory costs is appropriate. This means that decisions about the nature and timing of implementing such a policy must also be informed by consideration of the effect on prices in the industry and how this effect can best be accommodated: for example, by a phased introduction of the policy.

In relation to the various reform initiatives listed by the inquiry as being eligible for support from the revenue obtained from the sales of new taxi and PBO licences, the inquiry notes that it does not intend these initiatives to be supported by this revenue alone. Clearly, the Victorian Government will need to direct additional resources towards these initiatives to ensure their successful implementation.

11.3 Final recommendations

Improved regulation and a more effective regulator

10.1 For its next phase as industry regulator, the Taxi Services Commission (TSC) should have a concise and high level objective modelled along the following lines: *In carrying out its functions, the Taxi Services Commission's objective is to promote the provision of customer responsive, safe, competitive, efficient and accessible commercial passenger vehicle services.*

10.2 The Taxi Services Commission should report annually to the Victorian Parliament on its progress in implementing agreed reforms arising from the inquiry.

10.3 The Taxi Services Commission should have a number of members on its governing Board, including a lead Commissioner (Chair) with capacity for up to two further Commissioners. Appointments should be by the Governor-in-Council for a fixed term, with clear conditions on how these appointments can be terminated, preferably requiring the Minister to make the proposition before Parliament. The legislation should stipulate the skills and experience required for a Commissioner (skills considered more relevant are economic, competition, regulation and legal skills). Appointment of the Taxi Services Commission Chief Executive Officer should be on the recommendation of the Board.

1 See chapter 5 of the Draft Report

2 TISV, Draft proposals for transition, September 2012, p. 1

10.4 The performance of the regulator should be subject to a regular review (for example, after five years in the first instance) to ensure that the objectives of the regulator are being attained and are still relevant. This should be carried out in an open and transparent manner.

10.5 The *Transport Integration Act 2010* (TIA) appears to have particular application to the transport portfolio generally, including public transport. While the TIA policy framework and its considerations appear important, particularly in matters with general transport system impacts – such as integration with trains, trams and buses – care needs to be taken to ensure that its requirements do not impose overly onerous obligations on small specialist regulators such as the Taxi Services Commission. In particular, consideration should be given to adjusting the TIA's application to the Commission so that the Act applies to strategic planning and coordination decisions that might affect the transport system generally, rather than to 'ground level' operational activities such as deliberations by the regulator in matters of individual permission including issuing of licences, accreditations and permits.

10.6 All regulation affecting the small commercial passenger vehicle industry should be examined to ensure that, as far as possible, it is outcomes-based rather than prescriptive, enabling scope for regulated entities to find the most efficient ways of achieving the outcomes required and for the Taxi Services Commission to implement risk-based practice decisions in order to achieve its objectives. This should include:

- All existing taxi and hire car licences should have, as far as possible, consistent requirements that are provided for in regulation. The use of licence conditions should be reserved for very specific circumstances and generally only apply to particular individual permit holders; and
- The review of regulation should ensure that there are no unnecessary regulatory impediments to new innovation, including the use of online and smartphone applications to provide taxi and PBO booking or payment services.

10.7 The Taxi Services Commission should have flexible powers to ensure compliance with legislation, including powers to take administrative, civil and criminal actions as appropriate. The Commission should be empowered to undertake investigations and reviews of relevant aspects of its regulation, as necessary, to enhance and pursue its objectives or as directed by the Minister. Further, the Commission should have the power to issue guidelines and make codes.

10.8 The Taxi Services Commission should encourage industry self-regulation where appropriate to achieve its objectives and assist in the development of industry codes of conduct.

10.9 The Taxi Services Commission should be provided with effective information gathering powers, including the requirement for all taxi permit holders to provide data on trips, shifts and fares direct from the taxi-cab to the Commission on a continuous basis, and for Authorised Taxi Organisations to provide specified service delivery data on a regular basis.

Improved regulatory practices

10.10 The Taxi Services Commission should formulate and apply a compliance monitoring strategy that:

- Is based on transparent risk assessment methodologies
- Can be implemented with available resources and with an acceptable level of residual risk
- Recognises the costs it imposes on regulated entities
- Is responsive to changing regulatory risks
- Is documented
- Is publicised externally to industry and other stakeholders.

10.11 The Taxi Services Commission should ensure that its enforcement responses are flexible and targeted at the highest priority risks posed by non-compliance. The Commission's enforcement actions should be graduated and based on the principles that they:

- Are proportionate to the risks posed by non-compliance
- Recognise the capacity and motivation of non-compliant entities to return to compliance

- Signal the seriousness with which it regards the non-compliance
- Are timely.

10.12 The Taxi Services Commission should develop and make public its rules, policies and guidelines for administering and enforcing regulations. The process of development of compliance policies should involve consultation with stakeholders and be conducted in a transparent manner.

10.13 There should be a transparent and accessible internal review process for decisions of the Taxi Services Commission relating to driver accreditation, permit holder approvals, Authorised Taxi Organisation approvals and disciplinary matters.

Consultation

10.14 The Taxi Services Commission should broaden industry consultation and engagement approaches to ensure they are effective in assisting the industry and other stakeholders to make the adjustments required under the reforms, and to facilitate ongoing stakeholder contributions to regulatory practices.

10.15 Formal memoranda of understanding should be implemented for the Taxi Services Commission's significant relationships with other regulators and statutory agencies such as Victoria Police, the Essential Services Commission, VicRoads, the Office of the Small Business Commissioner, Consumer Affairs Victoria and others.

10.16 Agencies should consider improvements to their consultation and relationships with the Taxi Services Commission and the taxi industry, including:

- Victoria Police should consider better ways to inform its officers of commercial passenger vehicle offences, the role of the Taxi Services Commission in regulating the industry and the need for police and Taxi Services Commission staff to work together to improve compliance outcomes. Victoria Police should also consider overseas models of cooperation between police and taxi drivers in the detection and reporting of crimes observed by drivers, and any improvements to the timeliness of processing police checks for taxi driver applications that can be achieved
- Local governments should be given the opportunity to provide more formal and regular input to the Taxi Services Commission on managing future requirements for taxi ranks and rank congestion, and addressing transport options and public safety in late night entertainment precincts
- While it is not subject to State direction, the Victorian Government should encourage the Australian Competition and Consumer Commission (ACCC) to liaise much more closely with the Taxi Services Commission on competition issues within the commercial passenger vehicle industry in Victoria
- Again, while it is not subject to State direction, the Victorian Government should encourage Melbourne Airport and its terminal operators to instigate more formal and regular liaison with the taxi and hire car industry.

10.17 The Taxi Services Commission should ensure that it has a strong presence in both metropolitan and regional Victoria, focusing on more effective consultation and education with the industry and increased transparency of its regulatory activities.

10.18 Local governments should liaise with the Taxi Services Commission to resolve problems created by a lack of harmonisation of taxi and hire car regulation across State borders.

Funding

10.19 The Taxi Services Commission should be funded to a level that allows it to effectively and efficiently discharge its functions and responsibilities. In the short term, as has been forecast by its establishing legislation, the funding allocation currently provided to the Victorian Taxi Directorate should transfer to the Taxi Services Commission when it assumes the operational regulator role, and provisions for the transparency of funding in the Commission's establishing legislation should be retained.

10.20 In the longer term, taxi and hire car industry-specific regulation should be funded by the industry itself through licence fees and annual charges. As part of moving toward this goal, existing annual administrative fees charged to licence and registration holders should be reviewed.

10.21 A Litigation Contingency Fund should be established for the Taxi Services Commission so it can more smoothly manage its enforcement activities.

10.22 Revenue obtained from the sale of new taxi and hire car licences and registrations should be directed to industry reform and the delivery of better services to the community. This should include (but not be limited to) supporting the implementation of measures proposed in the Taxi Industry Inquiry's recommendations such as:

- Introducing the independent examination of taxi drivers, the Metropolitan and Urban zone Knowledge exams
- Continued support for safe ranks
- Establishment of the Central Booking Service in the Metropolitan zone for WATs
- Expansion of the MPTP to assist people aged 80 years and over who have had their private vehicle driver licence suspended by VicRoads
- Provision of a Public Transport Access Travel Pass to MPTP members
- Continuing the WAT vehicle subsidy scheme and extending it to cover Country and Regional zone operators
- Providing limited funding support for one or more community legal centres to continue to provide legal advice and representation for disadvantaged taxi drivers, particularly in relation to Driver Agreement issues
- General funding of the Taxi Services Commission to ensure it is sufficiently resourced to undertake its task. A priority should be ensuring that the Commission's information and technology capabilities are adequate to allow it to produce industry performance intelligence, target regulatory and enforcement activities and, where possible, move to online forms and payments systems to reduce costs for regulated entities. A data warehouse capable of collecting, storing, analysing and reporting on all commercial passenger vehicle industry data provided from taxi-cabs and Authorised Taxi Organisations, including MPTP data, should be established as an immediate priority of the reform program.

The case for national reform

During the course of the inquiry, efforts were made to engage with other jurisdictions to obtain knowledge of the regulatory systems operating elsewhere and any likely future reform initiatives being contemplated by these jurisdictions. What stood out from these discussions was the commonality of the issues faced by each jurisdiction and the potential benefits to be obtained by working together to achieve desired reforms.

Over the past 15 years in Australia, there have been several phases where taxi services have been on the national reform agenda. Initially, taxi reform was covered by National Competition Policy (NCP). However, the reviews and reforms undertaken by most States and Territories were judged by the National Competition Council as failing to meet NCP obligations. Further reforms, including the National Reform Agenda and the subsequent, Seamless National Economy initiative (including the National Occupational Licensing Scheme) did not include taxis and hire cars.

While there may be some benefit in developing common understandings about the nature of regulation required and methodologies to be applied in implementing regulation, circumstances vary widely between the jurisdictions – suggesting that each jurisdiction should be able to pursue reforms as it thinks appropriate. This particularly relates to the issue of what to do about licence number restrictions.

However, there are a number of specific areas where harmonisation is a desirable objective and a national reform program could usefully encompass these areas. This would be a wider agenda than that pursued to date through the Australian Transport Council and could cover driver and vehicle regulation issues in the first instance, before examining other aspects of industry regulation.

Driver licensing

It seems sensible, given the work already done to develop core National Taxi Driver Competency units and a National Minimum English Standard, to seek further harmonisation of requirements for driver certification. In particular, driver experience requirements and criminal record check requirements could be standardised across the jurisdictions. A move from individual jurisdiction driver certification or licensing to national licensing would then

be easier to implement. A national licence would allow a person to drive in any jurisdiction without having to obtain separate jurisdictional licences and would have advantages over mutual recognition in this respect.

Vehicles

Specific taxi and hire car vehicle restrictions vary between jurisdictions for little apparent reason. Greater consistency in vehicle regulations may assist manufacturers and importers to supply more appropriate vehicles to the Australian taxi market as a whole, including improving the overall accessibility of the fleet.

Taximeters

Taximeters have been exempt from trade measurement legislation in Australia. This situation has been maintained with the recent transfer of the trade measurement functions of State and Territory Governments to the Australian Government and the passage of new national measurement legislation. Generally, the responsibility for assessing meters and their accuracy still falls to the taxi industry-specific regulators. These regulators are not experts in trade measurement and the inquiry has found that the regulation of taximeters in Victoria has not been sufficiently rigorous to give confidence that meters are always accurate to internationally recommended standards. There would be clear benefits in the National Measurement Institute taking on responsibility for taximeters and working with jurisdictional taxi regulators in this area.

Consistent reporting and benchmarking of taxi and hire car regulators

Taxi and hire car regulators perform similar functions to each other in their different jurisdictions. It is desirable that regulation be locally focused and this is best achieved by having regulators operating at the State and Territory level. However, it is also desirable that regulators perform their functions efficiently and effectively: in this respect, there is a case for ensuring consistent reporting of their activities and benchmarking their performance.

Progressing national reform initiatives in taxis and hire cars

The inquiry considers that there is a strong case for pursuing on a national basis a number of the taxi and hire car reforms, such as those outlined above. The inquiry has no particular view as to the most appropriate mechanism for this to occur; for example, whether this is through the Standing Council on Transport and Infrastructure (which has replaced the Australian Transport Council), the National Transport Commission or the Business Regulation and Competition Working Group, or its successor, under the Council of Australian Governments. Reforms could also be progressed by a limited number of interested jurisdictions. The Interstate Reform Partnership, established by the Premiers of Victoria and NSW in 2011, may also provide an appropriate mechanism to advance reform.

Application of competition laws

The inquiry has identified adverse effects on competition in the taxi industry arising from the dominance of particular entities. The Australian Competition and Consumer Commission (ACCC) is the national body responsible for the administration and enforcement of the Competition and Consumer Act 2010 and plays a vital part in ensuring compliance with this law. State and Territory regulators have a role to play in highlighting their concerns about competition restrictions to the ACCC and removing unnecessary regulation that may be facilitating the growth or maintenance of restrictive practices. There is a need for the State and Territory taxi and hire car regulators and the ACCC to liaise closely to ensure markets are as competitive as possible. There may be a case to formalise the cooperation of these bodies through memoranda of understanding or similar mechanisms.

PART C – BOOSTING DEMAND AND COMPETITION

12 New and more flexible services

12.1 Inquiry's views in Draft Report

The inquiry found that taxis and hire cars can – and should – play a greater role as providers of point-to-point transport in Victoria, including tapping into unserviced or under-serviced markets, expanding into new markets and providing services to complement the broader transport system. The inquiry expressed the view that taxis are not public transport, but a mode of private transport that complements and provides an alternative to public transport (although this should not preclude governments from seeking to use taxis as public transport). The inquiry concluded that taxis and hire cars should not be disadvantaged by unduly prescriptive bus and other public transport regulation.

The inquiry noted that an expansion of the role of taxis in the overall Victorian transport task could deliver significant benefits to customers (in the form of more flexible and affordable services and more travel options) and the industry (providing opportunities to boost demand, lift occupancy rates and increase income).

The Draft Report canvassed a range of ideas for providing new taxi services or extending existing services into new areas. In exploring these ideas, the inquiry did not prescribe how these ideas might be implemented or examine whether these ideas are viable – those decisions should be left to industry participants. Rather, the inquiry's recommendations aimed to ensure that any proposed reforms do not limit the range of new and alternative services that can be offered to customers. In doing so, the inquiry also aimed to give permit holders as wide a scope as possible to seek out new opportunities, lift occupancy rates and increase industry income.[1]

The inquiry also found that more can be done by government to remove 'red tape' standing in the way of more flexible taxi services and to integrate taxi and hire car services more effectively into the broader transport system.

Draft recommendations

The inquiry made six draft recommendations aimed at assisting the industry to boost demand and lift occupancy rates.

- Legislation, and other impediments associated with fare setting, hindering the introduction of group hire services such as share rides and taxi shuttles should be removed.
- The requirement under the Bus Safety Act 2009 for taxis with 10 or more seats to seek registration as a bus in order to operate 'set fare' or 'set route' services should be removed. Taxis should not be defined as buses and permit holders should be permitted to offer fixed route services without having to seek a separate and duplicative registration.
- Commercial passenger vehicle services should be more fully integrated with other transport services in policy and planning, as envisaged by the Transport Integration Act 2010. In particular, consideration should be given to funding or utilising taxis as a complement or alternative to community and public transport where there are (but not limited to):
  - Service/s that are commercially viable for a taxi but not viable for a bus
  - Service/s that are commercially viable for a taxi and a bus, but where the taxi is more economical and/or efficient than a bus
  - Service/s that are not commercially viable for either a taxi or a bus, but where there is limited or no public transport available in an area, the relevant authority has determined a need for the service and a taxi is more economical and/or efficient than a bus.
- The Department of Transport, with input from the Taxi Services Commission, should establish and lead a working party of representatives from each of the major government contract providers (for example, the Department of Veterans' Affairs, Department of Human Services and Department of Planning and Community Development in relation to community transport) to standardise tender processes and raise awareness of commercial passenger vehicle services as a service option.

1 As discussed in chapter 7, the inquiry sees these opportunities as being an important aspect of its proposals to increase driver remuneration as they provide the potential for operators to offset higher driver payments with increased revenue.

- The Department of Transport should revise procurement policies to ensure that permit holders are able to compete for contract work where a public transport service is required.
- The Victorian Government should adopt measures to increase the access taxis have to bus lanes along freeways and major roads. The use of lanes should be subject to a regulatory impact assessment process and monitored by the Department of Transport, Public Transport Victoria and VicRoads to assess the impact of changes on the performance of buses.

12.2 Issues raised in submissions

Industry participants responded positively to the inquiry's draft recommendations to boost demand. There was particularly strong support for allowing taxis to provide 'bus-like' services (fixed route or set fare services) in certain situations and for reviewing government transport service tender requirements. There was almost unanimous support for increasing taxi access to bus lanes.

The VTA noted that "taxis must compete for work to increase occupancy" and that "regulatory and cultural hurdles" have prevented this from occurring in Victoria. The VTA commended the inquiry for making recommendations to assist the industry to achieve this outcome.[2] In general, most taxi operators saw merit in the removal of impediments that restrict their access to other markets or that prevent them from offering different types of service.

The main points of contention around these recommendations related to removing legislative impediments to group hire services and allowing taxis to operate 'bus-like' services.

12.2.1 Removing impediments to group hire and share ride services

A small minority of taxi operators did not support this recommendation on the basis that they would prefer to see fares increased overall, rather than 'cheaper fares' being offered to customers for particular services. Some operators saw the proposal as complicating an already complex fare structure and wanted to retain a high degree of conformity in fares with little or no scope for fare or service competition between operators.

The ESC agreed with the inquiry that simplifying the multiple hire fare to allow operators to offer a flat fare, share ride service represents a potentially useful innovation in taxi services. The ESC endorsed the inquiry's observation that Queensland has successfully operated these services in Brisbane and other main centres since December 2005.

Manningham City Council noted that the greater availability of share rides and taxi shuttles may be particularly beneficial to young and elderly people and offers the potential to "increase the use of services, increase revenue for providers and reduce the need for multiple trips to be made along the same corridor".[3]

12.2.2 Removing impediments to taxis operating fixed route, set fare services

The inquiry was made aware of some confusion about the implications of the *Bus Safety Act 2009.* Some submissions argued that there is no need to amend the Act and that the barriers to taxis operating these services were either created by the industry itself (through lack of innovation or effort) or by the interpretation of the legislation by the VTD.

Some taxi operators were concerned that allowing taxis to operate set fare or set route services would cause unnecessary friction with local bus providers. Others were concerned that blurring the distinction between taxis and buses would create confusion for customers. A very small number of operators felt that taxis should not be permitted in any circumstances to operate 'bus-like' services.

12.3 Inquiry's response to submissions

The inquiry maintains its strong view that unjustifiable impediments to the taxi and hire car industry moving into new markets should be removed.

2 VTA submission L179, p. 34

3 Manningham City Council submission E497, p. 3

12.3.1 Removing impediments to group hire and share ride services

The inquiry's recommendations to remove barriers to these services aim to give the industry every opportunity to explore new services at a range of prices. The inquiry rejects the assertion made by a small number of operators that a general fare increase is preferable to measures aimed at opening up new service opportunities. The inquiry's view is that a fare increase would be counter-productive in this regard as it will drive even more customers away, further reducing occupancy rates. Removing the impediments to service innovation – accompanied by some fare restructuring – will give the industry much greater scope to boost occupancy and revenue.

The inquiry does not agree with comments in some submissions that a strict and prescriptive metered fare structure is preferable to opening up the prospect of greater competition between ATOs and permit holders. Allowing new services to emerge will not only benefit customers; it will also benefit those ATOs and permit holders who are willing to explore new services and products. The inquiry continues to view competition as a key element in boosting taxi occupancy rates and has seen no persuasive arguments to the contrary presented in submissions.

The inquiry also notes that public discussion about service innovation has led to positive recent developments after many years of industry stagnation. Following the release of the Draft Report, the inquiry actively encouraged industry participants to explore share ride schemes. In July, the VTA announced plans to trial a share ride scheme under which designated share taxis will leave the CBD Queen Street mega rank every half hour, with each passenger paying $30 irrespective of how far they travel. The benefits of the scheme include significantly reduced fares to Melbourne's outer suburbs, while also freeing up cabs for inner city customers. This move by the industry is long overdue, but very welcome, and demonstrates the potential for providing new and innovative services.

The inquiry supports moves to broaden the range of services taxis offer and considers that trials of this kind should be facilitated by the regulatory framework. Some regulatory barriers to the emergence of shared ride services can be remedied through amendments to bus regulations, clarifying that such taxi services are not covered by such regulation. The inquiry is also recommending that only maximum fares be regulated: this will allow operators and ATOs to offer more flexible services.

The inquiry is also making a further recommendation in relation to share rides that would require the TSC, in consultation with the industry, to develop and publish guidelines governing the operation of share ride schemes. Permit holders wishing to operate a share ride service would be required to notify the TSC with the details of their service in line with the published guidelines.[4]

12.3.2 Removing impediments to taxis operating fixed route, set fare services

The inquiry has recommended specific circumstances where taxis should be funded or used as a complement or alternative to community and public transport services. Essentially, these cover situations where bus services are not commercially viable or where taxi services are more economical and/or efficient than bus services. The inquiry continues to consider that it makes little sense to fund bus services where a taxi can operate the route or service more economically – and at a lower cost to government.

In relation to concerns raised about the *Bus Safety Act 2009,* the inquiry repeats that the intent of its recommendation was that taxis should not be subject to 'double regulation' if they wish to operate a set fare or set route service. The inquiry has been provided with examples where the Act has been used to prevent taxis from operating these services, despite there being demonstrable benefits in allowing such an outcome.[5] The confusion surrounding the Act and its interpretation indicates that the legislation is defective and is not being interpreted correctly or consistently. Accordingly, the inquiry recommends that the Act be amended to make it beyond doubt that a licensed taxi with 10 or more seats is not required to seek registration as a bus in order to operate 'set fare' or 'set route' services.

4 See chapter 13

5 See, for example, the discussion of the Paynesville to Bairnsdale Share-A-Fare service set out in chapter 19 of the Draft Report.

12.3.3 New markets and opportunities

The inquiry reiterates the observations made in the Draft Report that there appear to be unserviced and under-serviced markets that the taxi industry could do much more to explore. These include the pre-booked market, the outer metropolitan market, the young passenger market, the tourism market (particularly in regional areas) and the expanding market being generated by an ageing population. Better integration of taxi and hire car services with community and public transport also has the potential to generate new service opportunities for the industry. The inquiry repeats that it makes little sense to maintain a situation where public and community transport services are under stress, but taxis and hire cars are greatly under-used.

The inquiry's commissioned customer research found that more than half (52 per cent) of taxi users do not use taxis more often because of the cost and that a substantial number of people would use taxis more often if they were cheaper. This research supported evidence to the inquiry that the demand for taxi services by particular groups of customers is strongly affected by price – notably young people, people with a disability and people on low incomes.[6]

The inquiry's commissioned research into demand elasticity research showed that a reduction in waiting time may have an impact on demand, suggesting that the adoption of measures to reduce waiting times (such as making improvements in booking systems, providing new services such as shuttles or share rides and increasing taxi access to bus lanes) is likely to lead to an increase in occupancy rates.[7]

The inquiry maintains its strong view that there is considerable scope for the taxi and hire car industry to expand into new markets and lift occupancy rates, supported by a regulatory regime that encourages innovation and competition.

12.4 Final recommendations

11.1 Legislation and other impediments associated with fare setting hindering the introduction of group hire services, such as share rides with flat fees and taxi shuttles, should be removed. In particular, the *Bus Safety Act 2009* should be amended to make it clear that a licensed taxi with 10 or more seats is not required to seek registration as a bus in order to operate 'set fare' or 'set route' services.

11.2 The Taxi Services Commission should consult with the taxi industry and develop and publish guidelines governing the operation of share ride schemes. Permit holders wishing to operate a share ride service should be required to notify the Commission with the details of their service in line with the published guidance.

11.3 Commercial passenger vehicle services should be more fully integrated with other transport services in policy and planning, as envisaged by the *Transport Integration Act 2010*. In particular, consideration should be given to funding or utilising taxis as a complement or alternative to community and public transport where there are (but not limited to):

- Service/s that are commercially viable for a taxi but not viable for a bus
- Service/s that are commercially viable for a taxi and a bus, but where the taxi is more economical and/or efficient than a bus
- Service/s that are not commercially viable for either a taxi or a bus, but where there is limited or no public transport available in an area, the relevant authority has determined a need for the service and a taxi is more economical and/or efficient than a bus.

11.4 The Department of Transport, with input from the Taxi Services Commission, should establish and lead a Working Party of representatives from each of the major government contract providers (for example, the Department of Veterans' Affairs, Department of Human Services and Department of Planning and Community Development in relation to community transport and Transport Connections programs) to standardise tender processes and raise awareness of commercial passenger vehicle services as a service option.

11.5 The Department of Transport should revise procurement policies to ensure that permit holders are able to compete for contract work where a public transport service is required.

[6] See chapter 19 of the Draft Report

[7] Ibid

11.6 The Victorian Government should adopt measures to increase the access taxis have to bus lanes along freeways and major roads. The use of lanes should be subject to a regulatory impact assessment process and monitored by the Department of Transport, Public Transport Victoria and VicRoads to assess the impact of changes on the performance of buses.

Technology and taxis

As noted in the Draft Report, new web-enabled and mobile communications technologies have great potential to expand taxi and hire car markets and improve services. In the first round of submissions, the inquiry received many suggestions about how mobile phones, smartphone apps, the internet and 'cloud' computing can boost the speed and reliability of booking services, provide direct customer-to-driver communication and enable networks to better match supply with demand. These technological developments were also seen as increasing service offerings and options for customers, potentially growing the overall market for taxi services.

Since the release of the Draft Report, Silvertop – one of Victoria's two largest NSPs– has told the inquiry (at the hearings held in August 2012) that during peak demand times, it cannot satisfy booked demand from its available fleet and has adopted the practice of providing engaged signals to consumers. Silvertop also expressed the view that emerging smartphone booking technologies and applications are still immature and would take up to five years to be accepted in the market. A similar view was expressed by the VTA in its submission on the Draft Report.

It is clear to the inquiry that newer companies such as Ingogo and GoCatch are established, growing and increasingly competing for market share in Australia. Similar competition is occurring in other jurisdictions. This has led to conjecture about how established industry participants (most notably the large networks) might build on their advantage as traditional dispatchers and preserve market share in the face of the challenge coming from these new market entrants.

The inquiry has recommended that future regulation should be outcomes-focused, rather than prescriptive. This also applies to the regulation of technologies. Without making specific recommendations about the introduction and take-up of new technologies by the industry, the inquiry notes that the TSC will need to develop a depth of capability and understanding of how this outcomes-focused approach applies to technology regulation if they are to avoid blocking new technologies and innovation in the taxi and hire car industry. The TSC will also need to encourage diversity of suppliers to specific technology-related markets.

There is emerging global recognition that the rapid introduction and adoption of new technologies is influencing longstanding approaches to taxi and hire car regulation – from the development of new standards and testing procedures for in-vehicle equipment through to the safety and other implications of smartphone taxi booking applications. As noted in the Draft Report, mobile communications are likely to increasingly blur the distinction between hailing and pre-booking taxis and between taxis and hire cars. By using GPS technology to identify, select, track and directly communicate with drivers in their vicinity, customers can obtain an almost instant service, comparable to hailing a cab. In addition, passenger choice is likely to be enhanced by the ability to compare multiple drivers/operators at a glance.

These developments have significant implications for the Victorian taxi and hire car industry. The inquiry reiterates its view that any new service offerings underpinned by these new technologies should not be precluded by regulation to the detriment of customers. Any new regulation covering these technologies should be sufficiently flexible to encourage innovation and competition, while retaining high safety standards.

13 Taxi fares: competition and regulation

Fare regulation is usually justified when competition has failed to eliminate excessive profits. In the Victorian taxi industry, quantitative restrictions on licences restrict competition and allow licence holders to earn excessive profits. In principle, this establishes a case for fare regulation. Introducing more competition will reduce the need for fare regulation; however, this is not as straightforward as removing limits on licence numbers. There are other market features that can prevent taxi operators from pricing their services competitively.

In this chapter, the inquiry sets out its final analysis and recommendations on whether fares should be regulated, how increased fare competition can be encouraged and, if fare regulation is to continue, the best approach for such regulation.

Should fares be regulated?

13.1 Inquiry's views in Draft Report

The inquiry found that while the current system of fare regulation restricts the level and structure of fares ostensibly to protect consumers, it also imposes some significant costs. These costs include that it discourages competition where it is feasible – particularly for pre-booked work – and restricts innovation by service providers who might offer higher quality, higher priced services or services with different fare structures. Further, fare regulation creates extensive averaging of the cost of trips across a wide range of different circumstances. This leads to the creation of distortions, as seen in short trip refusals and long queues of taxis at Melbourne Airport. The inquiry's draft recommendations aimed to reduce some of these costs and encourage more competition so that some of the benefits from price and service differentiation could be captured.

The inquiry's 'first principles' review of fare regulation for taxis and hire cars suggested that the arguments for fare regulation are most applicable to taxis procured from a rank or hailed from the street. In these situations, fare competition is not very effective, particularly as hirers cannot know when the next taxi will be available and what it will charge compared with the taxi at hand.

The Draft Report noted that, in the longer term – with barriers to entry reduced and other constraints to competition addressed (such as more competitive taxi networks and greater choice at ranks) – the form of fare regulation may be able to be changed to a price notification and price monitoring scheme. Under such a scheme, fares would not be set by the regulator, but by ATOs and permit holders with a requirement that any change in fares be clearly and publicly notified. Price notification would give customers confidence that fares could not be raised exploitatively, as well as facilitating comparisons between permit holders and ATOs. It would also allow the introduction of more innovative pricing and new services.

The inquiry found that the arguments for removing controls on fare setting in country and regional service areas are compelling. In these markets, work is mostly pre-booked and operators rely on repeat business. If barriers to entry (such as licensing) can be reduced in these areas, there could be significant gains from allowing operators to adjust fares to local conditions as they see fit (while still being subject to a requirement to notify the regulator and publish their fares).

The inquiry noted that, where fare regulation remains in the short- to medium-term, an obvious option is to change its form from fixed fares to maximum fares. The inquiry's strong view was that preventing discounting of fares cannot be justified and that allowing discounts may encourage some price differentiation.

Draft recommendations

The inquiry made a number of recommendations to move from fare regulation to fare competition over time.

- Taxi fares in the Greater Melbourne and Urban zones should continue to be regulated in the short to medium term.
- Regulated fares should change from being prescribed fares (fixed amounts) to maximum fares, giving permit holders and Authorised Taxi Organisation the ability to offer discounted rates below the maximum level to consumers.

- Maximum fares should be recorded on the taximeter and drivers be allowed to provide discounts off the meter rate, as long as the meter is run as a protection for consumers.
- Authorised Taxi Organisations should be permitted to determine and advertise lower fares than the maximum. All affiliated taxis with an Authorised Taxi Organisation should be required to adhere to the Authorised Taxi Organisation's published rates.
- The Taxi Services Commission should introduce a range of policies to enhance consumer choice, even at taxi ranks. Industry and consumer information and education will be vital in this regard: conditioning and accommodating changes in consumer behaviour at ranks will require education of both consumers and drivers as to their rights and obligations under the law.
- Following the first three years of the reform program, the Taxi Services Commission should assess the extent and effectiveness of fare competition to determine if it is suitable to move from maximum to notified and monitored fares in the Greater Melbourne and Urban zones in the future.

In Regional and Country markets, where pre-booked services predominate, the Taxi Services Commission should be empowered to replace formal maximum fare regulation with a price notification system, following the implementation of price-based licensing policy in these areas.

13.2 Issues raised in submissions

A relatively small number of submissions commented on issues relating to fares.

Several submissions wanted the full regulation of fares to continue. The VTA's view was that "the best way for fares to be set is by the regulator or the ESC", with each zone having its own regulated fare structure.[1] A number of country operators also wanted fares to continue to be regulated, with Cobram Taxis arguing that country taxi owners are not qualified to set their own fare structure and would need expert advice to do so.[2]

A more radical plan was proposed in a submission from Ms Yota Vlassopolous:

> *Networks, operators, owner drivers, need to be able to compete through the fare structure, through pre-approved fare rates and tariffs, while the public benefits through a tariff 1, that is set by the government and the ESC, where tariff 1 covers rank and hail, M40/M50 work and has the licence component set to zero: i.e. no rental, $20,000 is removed out of the fare formula (tariff 1 only). Capping of the fare (setting maximum fare) should be removed, with taxi companies as in any business, being allowed to cost their own business, evaluate their service and structure and charge their own fares, particularly in an open entry environment as advocated, but strongly opposed.*[3]

TISV initially stated that it "only supports the introduction of maximum fares for regional and country markets".[4] However, at the inquiry's hearings in August, TISV offered another suggestion that encompassed greater fare competition and less fare regulation:

> *An example that we came up with to promote competition without increasing numbers is this: a three-tariff structure, for instance. I'm not saying it's the only solution; there are many solutions to explore and debate.*
>
> *The idea of this is it creates competition within taxis and… between taxis and the private motorist, between taxis and the hire cars, between taxis and all other forms of bus transport. So tariff 1 could be set by the ESC [for] rank and hail, M40/M50 work, including pre-booked M40 and 50 work. That's set by the government at whatever rates you choose to set it by and we will follow that. Tariff 2 is Pre-Booked Only and the primary networks can set that. Silvertop can compete against 13CABS and Platinum and anyone else who chooses to be a primary network. Tariff 3 can be set by an individual operator, a secondary network, Ambassador Taxis, Taxi Staffing, anyone that chooses that to compete…*[5]

A large number of those opposing the change to maximum fares suggested that it would lead to unruly behaviour – especially at taxi ranks – and cause conflict between passengers and drivers about discounted fares. Others believed it would lead to disputes between operators and drivers in reconciling the meter with the fare box at the

1 VTA submission L179, p. 35

2 Hans Zonneveldt submission L081, p. 76

3 Ms Yota Vlassopoulos submission E359, p. 2

4 TISV submission E347, p. 34

5 TII hearings, submission by Mr John Vlassopoulos, Mr Jim Sikavitsas and Mr Ross Walker, TISV, 13 August 2012

end of each shift. The VTA supported the introduction of maximum fares, but not the driver being allowed to negotiate discounts off the metered rate, arguing that it may place drivers under pressure late at night when carrying multiple passengers. The VTA's view was that "once a customer enters a taxi there should be no negotiation regarding the fare".[6]

While endorsing the inquiry's recommendations, some submissions raised practical issues such as how and under what circumstances prices can be known and whether all taxis affiliated with a particular ATO would charge the same price. Concerns were also raised about how fare deregulation would work at taxi ranks. While the current behaviour at ranks – where customers are 'obliged' to take the first cab – is not a regulatory requirement on either drivers or customers, it is a practice that greatly inhibits choice.

At Melbourne Airport, concerns related more to the changes needed to the taxi handling system. The ESC observed that moving to effective competition in the supply of taxi services from the airport could be especially problematic. It suggested that the airport should receive particular attention at the proposed three year review, noting that "there may be evidence that points towards the need to treat airports as a special case".[7]

The ESC pointed out that the inquiry's recommendation on country taxis moving from regulated fares to a notification system does not incorporate the same 'testing' process that would be required before metropolitan taxi fares could be deregulated. The ESC also commented that it, rather than the TSC, might be a more appropriate body to undertake the proposed three year review and that once services are placed on a price notification system, the ESC should be responsible for monitoring these services.

13.3 Inquiry's response to submissions

The inquiry accepts the views put forward in some submissions that a precondition of deregulating fares and moving to a more competitive model is that taxis can be differentiated – that is, identified readily as being affiliated with a particular ATO or operating independently. The inquiry's view is that effective service and fare competition requires customers to readily distinguish a particular ATO's vehicles. Only when there is, or is very likely to be, competition should consideration be given to reducing the extent of fare regulation. In such circumstances, a notification and publication system will ensure that fares are known and conveyed to consumers and prevent exploitation of consumers (and drivers) in particular situations where they are vulnerable.

Fare changes should also be notified ahead of their introduction. Changes should be published by service providers and also consolidated and published by the TSC. This will ensure that passengers know what the rates are, can compare the rates in various areas and report providers who charge more than their notified rates.

The inquiry remains of the view that moving to notified and monitored fares over time will offer the industry much greater flexibility and scope for innovation, including the ability to offer premium services at higher prices.

Ms Vlassopoulous' suggestion has some attractive aspects, particularly in its recognition that fare competition is a more realistic short-term option in the pre-booked market segment. However, there are two primary objections to releasing controls on these prices: first, is not clear whether there will be sufficient competition between networks or operators to keep fares down; and secondly, it may be difficult to practically administer a system with different prices for rank and hail and pre-booked services where taxis provide both services but only one is regulated.

TISV provided detailed modelling to the inquiry on possible fare structures and levels, including fares with a higher flagfall (with included kilometres) and lower distance charges, and with late night surcharges that would go directly to the driver. TISV's modelling showed how drivers' incomes could be improved and issues with the fare structure addressed, while maintaining a base 50/50 split of the fare box between drivers and operators. However, this outcome implied a modest increase in fares overall.

TISV's proposal was also advanced on the basis that quantitative restrictions on the number of licences would be retained and assignments would be capped at $28,000 for five years, and then indexed by CPI. The inquiry does not consider that this provides an acceptable basis for removing fare maximums for pre-booked services. The inquiry considers that a fundamental pre-condition for greater fare flexibility is the removal of the quantitative restrictions on licences, which act to prevent excessive profits from being earned in the longer term.

6 VTA submission L179, p. 36

7 ESC submission L192, p. 7

With taxi licences only restricted by an annual payment, and the potential for more competition in the booked market from new PBO cabs, the inquiry considers there is a strong case for removing fare regulation for pre-booked taxi services entirely within a relatively short time. One option is to put a 'sunset' on fare regulation (perhaps of three or four years) or to provide a 'safeguard' control on pre-booked maximum fares of (for example) 20 per cent above the rank and hail rate. While there is a risk that operators and networks may gravitate towards the ceiling rate, there is considerable evidence from pre-booked markets in overseas jurisdictions that fare differentiation is possible and beneficial for consumers. A lack of competition for customers has been identified by the inquiry as a major cause of the industry's poor performance. Removing barriers to competition is one way of addressing poor customer outcomes. This includes the unnecessary regulation of fares in the absence of compelling and demonstrated market failure.

The inquiry considers that TISV's proposal merits revisiting in a future fare review as full competition begins to emerge more generally.

The inquiry notes that all other Australian States have moved to regulated maximum fares. The inquiry is not aware of any evidence of an increase in fare evasion, disputes between passengers and drivers or other 'anti-social' behaviour associated with this practice. In any case, it should not be difficult for an operator and driver to agree on offering discounted fares on any given shift or even as a general rule. The inquiry accepts the VTA's point that the fare must be negotiated 'upfront' and entered on the meter, and notes that this occurs in other places with regulated maximum fares. This will require the taximeter to be capable of performing this function.

Clearly, a significant change of culture will be required at taxi ranks – and, possibly, to the design of ranks as well – to encourage passengers to choose their taxi rather than simply accept the first one on the rank. Drivers will also need to understand this change. The TSC will need to educate the industry and the public about customers' right to choose. Taxi operators have told the inquiry that their margins are thin; therefore, it would be unreasonable to expect a rush of heavy discounting at ranks, meaning that issues of 'poor behaviour' are more likely to result from patrons choosing a taxi not stationed at the head of the rank rather than a 'Dutch auction'.

For example, the inquiry's view is that if a taxi is on a rank and the driver is about to change shifts, it is preferable for the driver to offer a discounted fare to a passenger wanting to go in the direction required for the shift change, rather than refusing a fare because it will be too far out of his or her way and then driving to the shift change with no fare.

The inquiry notes that Melbourne Airport poses particular problems in moving to fare competition, including the current configuration of the terminal forecourt and the need to dispatch a large number of taxis quickly. One way to address this could be to develop a suite of fixed fares from the airport to various destinations. The inquiry agrees with the ESC's suggestion that this matter should be considered once major reforms have bedded down and there is greater opportunity to assess the situation with Melbourne Airport.

The inquiry notes the ESC's point about the removal of price regulation in country areas not being subject to the same testing being proposed prior to the deregulation of metropolitan taxi fares. There are two reasons why the inquiry considers that a review of specific country areas is not justified. The first reason is that the costs of undertaking such reviews are likely to be high as there are many different country markets, each with their own peculiarities. The second reason is that the net benefits of fare regulation are likely to be lower in these areas. As noted throughout this report, country taxi trips are overwhelmingly booked. For booked services, customers have a much greater ability to choose which service they will use and businesses must rely on their reputations to sustain their viability. This is particularly the case in small country towns where the likelihood of the passenger knowing the taxi operator and business is very high. The inquiry considers that its proposed reforms will provide for structural conditions that support competition or are likely to support competition. Reducing restrictions on issuing licences and changing the regulation of networks makes the threat of competitive entry more credible – reducing the need for price regulation. Accordingly, the inquiry reaffirms its view that the relaxation of fare regulation in country and regional markets can accompany the introduction of licensing reforms, subject to meeting certain pre-conditions around providing for sufficient price notification and monitoring by the regulator. Further, it should be possible to effect these changes by piloting them in particular areas, under TSC supervision.

The inquiry considers that it is appropriate for price notifications to be made to the TSC, not the ESC, as the reason for notification is not so that prices can be assessed, but so they can be published in one central place where consumers and the regulator can view a record of what companies have said they will charge. The TSC is the appropriate body to undertake the three year review to determine the suitability of moving from maximum to notified and monitored fares. This review will require a comprehensive understanding of what has changed in the

Metropolitan and Urban zones and the readiness of the industry to move away from fare regulation. The TSC will be best placed to carry out this task, but should formally seek input and advice from the ESC.

Existing operators who commented on these recommendations did not agree with reducing fare regulation to a notification and monitoring system. However, these same submitters also wanted licensing restrictions to continue. In this regard, their comments are consistent with the inquiry's analysis that fare regulation is necessary for a taxi industry operating under conditions of imposed scarcity. However, the inquiry is recommending removal of the quantitative restrictions on licences. This will diminish the need for fare regulation and operators will be able to apply to the TSC to move to fare notification, with a requirement that fares be clearly posted on the taxi and on the internet for comparison and monitoring purposes. Operators that wish to maintain some connection with regulated fares will be able to notify their prices consistent with those set in Metropolitan and Urban zones.

How should fares be regulated?

Given that some form of ongoing fare regulation is likely to be justified, at least in the Metropolitan and Urban zones, the inquiry also made recommendations about how fares should be regulated. These recommendations focused on improving the process of fare regulation and addressing specific issues identified with the various components of fares and their structure.

13.4 Inquiry's views in Draft Report

The inquiry viewed the change in policy to allow the ESC to provide advice to the Minister on fare setting as having been beneficial for the industry and consumers. The ESC has been able to bring rigour to the fare setting process and, through a series of fare reviews and other references, has been able to highlight some of the underlying flaws with taxi and hire car industry structures.

The inquiry considered that an additional benefit would come from further increasing the independence and predictability of the fare setting process, following precedents in other industries. The inquiry also considered it would be desirable for fare reviews to be conducted with a specific role for the Taxi Services Commission(ers) for two reasons: first, this would ensure that the ESC is more fully informed about the industry and the status of reform initiatives; and secondly, because the industry's structure is significantly different to the utilities the ESC generally regulates. The inquiry's view was that, without TSC involvement, there is some risk that the approach taken to fare regulation would not complement other elements of the reform package.

While supporting the ESC's role, the inquiry made suggestions about how to improve fare setting. Some of these suggestions related to fare setting methodology; others related to fare structure or were directed towards taking greater account of the demand for taxi services (which is appropriate given that taxi operators have a cost structure that is more like a competitive industry than a natural monopoly). In particular, the methodology ought to take account of the balance between supply and demand. Research undertaken for the inquiry pointed to the relatively high elasticity of demand for taxi services and informed the inquiry's deliberations about fare restructuring.

The inquiry examined some specific issues about fare structure. The first of these was the issue of short fare refusals in Melbourne, with several submissions suggesting raising the flagfall to increase the profitability of short fares. At the same time, the inquiry examined the apparent problems of over-capacity and long taxi queues at Melbourne Airport, noting that this appears to be driven by the additional profit that can be earned from long journeys (exacerbated by 'Tariff 3', which applies a 50 per cent levy to the standard distance rate for WATs hired as high occupancy vehicles). The inquiry noted that this appears to lead to large numbers of WATs waiting at the airport and reducing WAT availability across the rest of Melbourne.

Draft recommendations

- Fares should be determined by the Essential Services Commission. To implement this, the Government should issue an order to declare the taxi industry to be a regulated industry under Section 4 of the *Essential Services Commission Act 2001*.
- A Commissioner of the Taxi Services Commission should be appointed a Member of the Essential Services Commission to assist with taxi fare reviews.
- Fare reviews should be undertaken periodically with the capacity to undertake interim reviews should certain cost thresholds (for example, LPG price movements) be reached.
- Fares should be restructured to:

- Better match operators' costs with fares, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak)
- Increase the flagfall and reduce the price per kilometre for the Greater Melbourne zone to address the undesirable practices of short fare refusal and inefficient behaviour such as airport overcrowding
- Replace the 'Tariff 3' 50 per cent surcharge on the distance rate with a flat fee of between $10 to $15, which customers should be advised of when they book a higher occupancy vehicle or when they select one from a rank, such as at the airport
- Simplify 'multiple hire' fare charging to support the industry to offer more flexible, innovative shared ride type services (for example, by allowing flat fee amounts for passengers in a shared ride trip that total more than the meter) and include provisions for Multi Purpose Taxi Program members to use their subsidy for shared rides.

13.5 Issues raised in submissions

There was strong support for the 'de-politicisation' of fare setting, with most industry comments on this issue endorsing the inquiry's proposal for the ESC to determine regulated taxi fares. A small number of submissions appeared to have misunderstood the role of the ESC. For example, some of these submissions called for a body such as the Independent Pricing and Regulatory Tribunal (IPART) in NSW to determine fares. However, the ESC is an independent body similar to IPART.

Many submitters agreed there should be a TSC Commissioner sitting on the ESC for taxi pricing determinations. However, the ESC submitted that this should not be the case, arguing that it would jeopardise the ESC's independence.

Nearly all of those who commented on fares, including the ESC, supported periodic reviews and automatic triggers for reviews on main cost movements, such as sudden changes in fuel costs.

A number of submissions contended that the inclusion of assignment fees in the cost base for fare setting should cease. For example, the VTA stated:

> *The VTA is keen to see licence value removed from the fare setting model and note that little has been done to achieve this. In fact …the current fare setting model allows for a licence payment of $20,000 per annum'.*[8]

The ESC made a number of comments on the process of fare regulation. In addition to urging the inquiry to give consideration to the collection of relevant data for taxis and PBOs, the ESC acknowledged the concerns about price setting raised by the inquiry in the Draft Report. For example, the ESC suggested that, prior to the next fare review, the Government should send it a reference requesting a review of the fare setting methodology:

> *The ESC believes there is merit in moving away from a rigid building block (cost of service) approach to fare setting and exploring new approaches and methods for setting fares that take greater account of the dynamic interaction between the demand side and supply side of the taxi market … and other relevant markets.*[9]

Several submissions also called for the method of fare regulation to be changed. The majority of these supported an annual system similar to that used in NSW, although a few suggested six monthly reviews (as occurs in Queensland) would be preferable. In both cases, the submissions called for a formula using cost indices.

A large number of submissions commenting on fares made specific comments on fare structures. Most from within the industry supported higher fares late at night on Friday and Saturday. However, there was resistance to offsetting this with lower fares at other times. Some simply objected to the concept of lowering fare components in any circumstances; others argued it would be unfair to drivers on other shifts and/or that it would favour business customers. However, the ESC supported further detailed analysis of this proposal. In relation to the higher Friday and Saturday night fares proposal, the ESC contended that existing bailment agreements for fixed shares of revenues encourage both drivers and operators to maximise taxi use and that some of the inquiry's other recommendations will reinforce these incentives for operators.

8 VTA submission L179, p. 35

9 ESC submission L192, p. 11

VECCI viewed the proposal to raise the flagfall and lower the distance charge as "a sensible means of addressing short fare refusals. However, any increase in fares must be accompanied by a corresponding improvement in services".[10]

Some disability advocates and taxi users had concerns about the recommendation to restructure fares to increase the flagfall and reduce the price per kilometre for the metropolitan area. While many agreed that it could address the problems of short fare refusal and airport overcrowding, there were concerns that it may increase the cost of taxi travel for people with a disability, many of whom need to take short trips on a regular basis. On the other hand, several taxi users at the DARU-VCOSS forum in July 2012 were comfortable that the fare change would 'balance out' with cheaper long distance trips.[11]

There was a mixed response to the recommendation to change the high occupancy tariff ('Tariff 3') to a fixed amount, rather than the current 50 per cent levy on the standard distance charge. Some submissions saw this as achieving the dual effect of reducing the number of WATs waiting at the airport and improving WAT availability more generally across Melbourne. Others disagreed. The VTA submission stated:

> *The VTA is firmly opposed to [the 'Tariff 3' recommendation]. At times of high demand the 50 per cent surcharge rewards drivers for efficiency.*[12]

There was widespread support among taxi users with a disability for the 'Tariff 3' recommendation. Scope viewed the proposed change as 'a good idea' as the surcharge is "a common form of fraud used by drivers when carrying wheelchairs".[13]

Most submissions endorsed the inquiry's multiple hire recommendation. The ESC considered that the proposal, in conjunction with other related recommendations, should "improve service provision from high occupancy operators and drivers". Noting that the basis of the charge would leave these operators no worse off, the ESC concluded that "the change appears reasonable. That it addresses airport queuing is also a favourable outcome".[14]

However, responses showed some confusion, even within the industry, on how the current 75 per cent arrangement works. Some taxi users appeared to think the inquiry's recommendation would be compulsory and objected to the prospect of sharing a ride with strangers. Others (apparently working in the taxi industry) thought that the fare upon which the 75 per cent is calculated is the fare that would apply if the taxi took the most direct route to the drop-off point for a particular passenger, rather than the fare on the meter.[15]

Since the release of the Draft Report, the industry has suggested that there be a flat $30 fare for a shared ride out of the city.[16]

A number of submissions took the opportunity to comment on the need for a fare rise. Most observed that there has not been a fare rise in four years despite rising costs (with fuel prices singled out). Many claimed that fares are 30 per cent lower in Victoria than elsewhere in Australia. More broadly, as noted in chapter 7, the VTA and others in the industry argued that taxi fare 'adjustments' should not be seen as 'pay rises' for drivers or operators, but as a cost recovery process, with pay rises coming to drivers and operators who can lift occupancy levels across shifts.

13.6 Inquiry's response to submissions

13.6.1 Role of the ESC

As there was generally strong agreement with the proposition that the ESC should be responsible for determining fares, the inquiry is maintaining this as a final recommendation. The inquiry notes that this recommendation can be effected either by the Victorian Government issuing an order to declare the taxi industry a 'regulated industry' (under section 4 of the *Essential Services Commission Act 2001)* or through specific taxi-related legislation.

10 VECCI submission L180, p. 3
11 See report of DARU-VCOSS forum, Op. Cit.
12 VTA submission L179, p. 36
13 Scope submission E346, p. 68
14 ESC submission L192, p. 13
15 See chapter 12 for further discussion on this development
16 See chapter 12

The inquiry notes the ESC's concern with a TSC Commissioner being appointed to the ESC for taxi fare reviews. As set out above, the ESC considers this would undermine its independence and that there are no instances of a similar appointment for any other industries for which the ESC sets prices or advises on prices. The inquiry notes that, while no other industry-specific regulator has such a position on the ESC, all other regulators of industries for which the ESC provides economic regulation are, like the current taxi regulator, not independent from government. Having a public servant sit on an independent board would be unusual and could potentially comprise the independence of the ESC. However, the new taxi regulator will be an independent body with similar governance arrangements to the ESC. Accordingly, it is not clear to the inquiry that having an independent TSC Commissioner join the ESC for taxi fare reviews will compromise the ESC's independence. The inquiry also notes that cross appointments on independent regulatory bodies are quite common.[17]

The inquiry considers the formal involvement of the TSC in fare setting to be critical for several reasons:

- The TSC will have the specific expertise and knowledge about the taxi industry required to inform deliberations about fare setting.
- As the entity responsible for overseeing the reform program, the TSC should be involved in fare setting to provide an informed voice in the ESC's deliberations that will help the ESC to appreciate and fully take into account matters where decisions about fares could undermine industry reforms or slow their implementation.
- The TSC has clear competition and efficiency objectives that should also feed into the fare setting process.

The inquiry also notes the view expressed by the ESC that the terms of reference for the ESC could ensure that its deliberations on fare setting will not only be consistent with the reform implementation process but will reinforce, as far as practicable, the TSC's implementation program. While this is a sensible approach, the inquiry maintains its view that some cross-membership between the TSC and ESC would also be useful, at least during the reform implementation period.

The inquiry considers that there is a strong argument for a thorough review of the fare setting methodology and sees no reason why this cannot be undertaken as soon as practicable. The ESC agrees that it should review the fare setting methodology.

13.6.2 Inclusion of the licence assignment fee in fare setting

The response of the VTA and others in the industry to the removal of assignment fees from fare modelling is an interesting perspective. At face value, this could be highly desirable as, in theory, it would prevent consumers from underwriting licence values and eliminate the circularity that seems inherent in including payments to licence holders as a cost. However, taking this approach to its logical conclusion would result in number of significant impacts on the industry:

- Fares are set by the regulator to allow for the recovery of efficient costs. This suggests that fares could be reduced by some 14 per cent from their current level, as this is the assignment value that is explicitly allowed for in the ESC's last fare review.
- This approach would have a serious impact on market assignment values and potentially reduce these to around $10,000 (the difference between the current market value of assignments and what is allowed for in the fare model). Even then, it would raise the question of whether fare regulation was being conducted appropriately, as recovery of efficient costs should allow no excess that would be used to pay licence owners.
- Therefore, it would significantly reduce licence values – far more significantly that the inquiry's reform proposals – and may even reduce these values to zero over time.

The inquiry suggests that its approach of fixing assignment values is likely to have a much smoother and more predictable impact for licence holders and operators and, in the longer term, will reduce the significance of assignment fees and licence values in fares.

13.6.3 Fare restructuring

On the issue of fare restructuring, the inquiry notes the comments of those who objected to higher fares on some evenings being offset by reductions at other times. It is important to understand that the inquiry's proposals were

17 For example, the Australian Competition and Consumer Commission (ACCC) has associate members the chairs of the Australian Communications and Media Authority (ACMA) and the New Zealand Commerce Commission. There are reciprocal arrangements between these two regulators and the ACCC, with the ACCC chair sitting on the board of ACMA and an ACCC Commissioner on the board of the NZ Commerce Commission.

designed to ensure that the current vehicle fleet is on the road as much as possible at peak times. Because the change in driver remuneration reduces operator returns at these peak times (and there is also evidence that not all of the fleet is out at peak times, particularly Saturday nights), the inquiry's analysis suggested that there were potential benefits in allowing higher fares at peak times. In other words, the proposal was not designed as a path for a general price increase and the inquiry has recommended that this change be essentially revenue neutral.

On the basis of the data available to the inquiry, the increase in fares at peak times to account for changes in driver remuneration would be in the order of 11 per cent (based on an operator being no worse off under a 55/45 fare box split) and should require only a very small reduction in fares at other times. This means that the effects mentioned by opponents of this proposal are likely to be small. Implementation of this restructure is required to maintain operator income on Friday and Saturday nights following the change to the split of the fare box.[18]

The inquiry's focus has been on the marginal incentive effects of changes to fares and splits of revenue. The inquiry does not agree with the ESC that the structure of current agreements between operators will ensure that fleet usage is maximised. The recommended changes to the driver/operator fare box shares will mean that, at the margin, some operators will find that they earn insufficient revenues to send their cabs out at these times (that is, revenues will be below marginal costs). An increase in fares will provide the necessary revenue to offset the reduced income due to a smaller operator share of the fare box.

The inquiry remains of the view that its proposed changes to 'Tariff 3' would be beneficial for service performance. The inquiry has observed that service levels for WAT users are poor, while many WATs are observed waiting at Melbourne Airport. The objective of this change is to better balance incentives for taking WAT work with the extra fare available for longer, high occupancy hires such as those from the airport. In addition, a flat fee should reduce the likelihood that MPTP users are charged the 'Tariff 3' surcharge.

The inquiry welcomes support for encouraging the use of multiple hires. However, the inquiry is aware that both drivers and the public need to understand these fares. The prospect of a flat fare is worth considering. The inquiry notes that its recommendation does not mandate that shared rides must be accepted, just that they should be available.[19]

The inquiry is recommending a regular schedule of fare reviews by the ESC, as well as establishing a set of triggers for interim reviews. On the matter of how fares should be reviewed – as a 'pay rise' or as cost recovery – the inquiry's view is that it should be neither. As noted above, the inquiry prefers an approach to fare setting that examines both demand and supply. Indeed, the ESC has found (and the inquiry's analysis confirms) that fare rises rarely flow through to drivers as higher remuneration: rather, the extra income goes to licence holders in the form of higher assignment prices and licence values.[20]

Lastly, the inquiry notes that consideration of a fare increase is not directly within its terms of reference. Further, under existing legislation, any fare increase can only occur following advice to the Minister by the ESC. However, as noted in this chapter, the inquiry has made a number of recommendations about the structure of fares and how they should be set. These recommendations, along with others in the reform package, offer drivers and operators the opportunity to lift occupancy rates, provide new services and increase their incomes.

13.7 Final recommendations

12.1 Taxi fares in Metropolitan and Urban zones should continue to be regulated in the short to medium term, and should change from being prescribed fares (fixed amounts) to maximum fares, giving permit holders and Authorised Taxi Organisations the ability to offer discounted rates below the maximum level to consumers.

12.2 Maximum fares should be determined by the Essential Services Commission (ESC). Fare reviews should be undertaken every two years, with the capacity to undertake interim reviews should certain cost thresholds (for example, LPG cost movements) be reached.

12.3 A Commissioner of the Taxi Services Commission should be appointed a member of the ESC for the purpose of assisting with taxi fare reviews and determinations for the first five years of taxi reform implementation. In addition, the ESC should be required to ensure its deliberations on fare setting have

18 See chapter 3

19 Share rides are discussed further in chapter 12

20 The inquiry's analysis of the effects of fare rises on driver incomes is set out in section 13.5 of the Draft Report.

regard to the Government's broader taxi reform package and its progress in implementing these reforms.

12.4 A review of the taxi fare setting methodology should be commenced as soon as possible. The terms of reference should have regard to the views expressed by the Taxi Industry Inquiry on fare setting methodology, should take into account the differences in industry structure between the taxi industry and other utility industries regulated by the ESC, and should consider fare setting models that account for demand factors in a dynamic way.

12.5 Maximum fares should be recorded on the taximeter. Authorised Taxi Organisations (ATOs) and independent permit holders should be permitted to determine and advertise lower fares than the maximum (and these discounted fares will also be shown on the taximeter), and all taxis affiliated with an ATO should be required to adhere to that organisation's published rates.

12.6 In Regional and Country zones, where pre-booked services predominate, the Taxi Services Commission should be empowered to replace formal maximum fare regulation with a price notification and publication system, following the adoption of the licensing reforms proposed by the Taxi Industry Inquiry.

12.7 In areas where price notification applies, Multi Purpose Taxi Program (MPTP) passengers should have their subsidy component calculated on the Metropolitan zone regulated maximum fares rate.

12.8 Following the first three years of the reform program, the Taxi Services Commission should assess the extent and effectiveness of fare competition to determine if it is suitable to also move from maximum to notified and monitored fares in the Metropolitan and Urban zones. In making this assessment, the Commission should consider if all or part of these services are sufficiently competitive, particularly the pre-booked segment of the market.

12.9 Fares should be restructured to:

- Ensure changes in operators' returns due to the new Driver Agreement do not adversely affect services, which requires an increase in taxi fares late on Friday and Saturday nights (peak times), offset against a reduction in fares at all other times (off-peak)
- Increase the flagfall and reduce the price per kilometre for the Metropolitan zone to address the undesirable practices of short fare refusal and inefficient behaviour such as airport overcrowding
- Replace the 'Tariff 3' 50 per cent surcharge on the distance and time rate with a flat fee of between $10 and $15, which customers should be advised of when they book a higher occupancy vehicle or when they select one from a rank, such as at the airport
- Simplify 'multiple hire' fare charging to support the industry to offer more flexible, innovative shared ride type services (for example, by allowing flat fee amounts for passengers in a shared ride trip that total more than the meter) and include provisions for MPTP members to use their subsidy for shared rides.

14 Paying for taxi fares

14.1 Inquiry's views in Draft Report

The Draft Report noted that taxi users are increasingly paying for taxi fares with credit cards, debit cards and taxi-specific charge cards – consistent with economy-wide trends towards greater use of electronic payments. The inquiry estimated that surcharges or service fees associated with these electronic payment systems cost Victorian taxi users at least $30 million each year.

The Draft Report described the particular characteristics of the in-cab payment systems market and explained why the costs of processing electronic payments in taxis are higher than for other retailers, and the forces that are likely to prevent surcharges for electronic payments being limited merely to the recovery of these costs. The report noted that higher costs are driven by the high risk of fraud and the unwillingness of banks to deal directly with taxi operators. This has created opportunities for intermediaries to facilitate electronic payments. This additional functional 'layer' (compared with other retail transactions) and the higher merchant fees charged by banks increases the cost of electronic payments processing.

The inquiry also noted the 'two sided' nature of the payments system, with two sets of customers for payments processing services – taxi operators and taxi users – that means firms supplying these services must attract both kinds of customers. The inquiry found that the consumer demand for electronic payment systems is much less elastic (that is, not as responsive to price changes) than demand by taxi operators. The reason is that there is limited price competition between taxi operators and no real option for consumers to choose a lower-cost electronic payment option, while there are several competing suppliers of payments processing services.

The inquiry found that these characteristics are exacerbated by market concentration in the electronic payment systems market, with Cabcharge holding substantial market power in both taxi specific payment instruments and payments processing. The inquiry's view was that this issue is best addressed by the Australian Competition and Consumer Commission (ACCC) and the Reserve Bank of Australia (RBA) in their roles of overseeing and enforcing regulation of anti-competitive behaviour in payment systems markets. However, the inquiry concluded that certain regulatory barriers can and should be addressed by the Victorian Government.

The inquiry found that the 10 or 11 per cent service fee[1] charged on electronic payments in Victorian taxis is likely to far exceed the resource costs of providing the service and creates significant detriment for consumers of taxi services.

Despite there being four payments processors operating in Victoria, the inquiry found that consumers are not benefitting from competition between these service providers. Instead, each provider charges the same 10 or 11 per cent surcharge or fee to consumers for electronic payments and, rather than competing on prices charged to consumers, these providers use part of the surcharge to provide rebates to drivers and operators who use their systems. On average, these rebates account for around half of the surcharge. This has become common practice, with Cabcharge now making payments to drivers in the Sydney market,[2] in addition to their established practice of payments to larger networks.

The remaining surcharge revenue is used to pay for such things as investment in terminals, backend processing and merchant service fees to card schemes and acquiring banks. These are the resource costs associated with supplying the services. Other payments are simply transfers between consumers and operators, drivers or networks and serve to demonstrate that the surcharge exceeds the resource costs of providing the payment service.

The inquiry observed that more effective competition between taxi operators and networks is one of the few ways to increase market pressure for a reduction in the surcharge. In addition, technological developments in Australia and overseas are creating alternatives to using taxi specific payment processing systems with the benefit of offering lower prices to consumers for certain electronic transactions. The inquiry noted the importance of ensuring that regulation facilitates, rather than stifles, such innovation. However, the inquiry found that these developments are likely to be limited in their impact and that regulation of the service fee would be necessary as,

1 The inquiry understands that Cabcharge absorbs the GST for payments made with Cabcharge cards (and so charges a fee of 9.1 per cent plus GST). All other cards are charged at 11 per cent, regardless of payment processor.

2 Only if a driver's third party card transactions exceed those done with Cabcharge cards and E-tickets

even if some barriers to competition are lowered (such as access to processing Cabcharge-branded cards and the removal of the MPTP Cabcharge monopoly) the 10 per cent surcharge is likely to remain common practice.

At the time of the release of the Draft Report, the RBA was conducting a review into card surcharging practices. The RBA's Payments Systems Board shared the inquiry's concern about excessive *ad valorem* surcharges on electronic payments and indicated that it intended to relax the No-Surcharge Standards to allow payment schemes (Visa and MasterCard credit and Visa Debit) to limit surcharges to a reasonable cost. Although the inquiry viewed this development as promising, the absence of a decision at the time of the Draft Report gave the inquiry little option – given the weak competitive forces in the taxi industry – but to recommend regulation of service fees or surcharges on payments for taxi services.

Draft recommendations

The inquiry made four recommendations in relation to taxi payments systems.

- Barriers to entry into payments processing should be reduced, by changing arrangements for the Multi Purpose Taxi Program scheme and changing the approvals process for EFTPOS devices in Victorian taxis.
- A new standard should be established for the processing of Multi Purpose Taxi Program cards and this should be made available to future card payment providers. This would involve allowing any EFTPOS terminal to process Multi Purpose Taxi Program cards by permitting taxi fare data to be acquired by EFTPOS terminals via newer 'cloud' technologies, rather than only via the current requirement of a hard-wired link with the taximeter. The new standard should be sufficiently technically robust to control fraud under all operating conditions. Adoption of this recommendation will require a formal design evaluation and commercial procurement diligence, prior to implementation.
- The 10 per cent service fee levied on the processing of electronic payments should be brought under regulation as part of taxi fares and set at a level that better reflects the resource costs of providing the service. The inquiry recommends this fee be set at five per cent of transaction value until subject to a further evaluation by the Essential Services Commission as part of a fare review.
- Removal of the regulation applying to the processing of electronic payments for taxi fares should occur as part of a broader move to remove fare controls or if and when new technology facilitates greater competition in payments processing fees.

14.2 Issues raised in submissions

While there was very strong support for the inquiry's recommendations in online survey responses, only a relatively small group of submissions commented in detail on the inquiry's analysis of payment systems and associated proposals. Only one payment processor operating in Victoria, NBG (CabFare), made a submission to the inquiry. Cabcharge did not make a submission in response to the Draft Report.

While noting general agreement with the direction of the draft recommendations, NBG argued that the inquiry did not take sufficient account of the potential for increased fraud, under-reporting of income and money laundering as a result of its proposals. NBG also argued that the RBA's recent reforms to surcharging have addressed issues with respect to designated payments systems (Visa and MasterCard) and these matters no longer need to be addressed by the Victorian Government. NBG suggested that other payments systems (such as Cabcharge) could be regulated and that a 'cost of service' model would be appropriate for determining the service fee.

In evidence given at the inquiry hearings, NBG further argued that the inquiry should aim to ensure that appropriate access arrangements to Cabcharge's payment instrument are in place, as this will deliver a more pro-competitive outcome than regulation of the service fee.

The inquiry also received a detailed anonymous submission arguing that the size or impact of the 10 per cent surcharge on consumers is overstated, particularly given the high levels of corporate use of taxis.[3] This submission stated that, based on market intelligence and industry experience, around 26 per cent of taxi fares are collected electronically and that 70 per cent of this use comes from corporate taxi users.

The submission also provided details on the costs of mobile EFTPOS provision in taxis, supporting the inquiry's analysis that costs as a percentage of transaction value are much higher than other retail environments due to the particular characteristics of the in-cab payments systems market. These include the costs of maintaining a

3 Anonymous submission, E479

working terminal at all times (as required by regulation), delays in receiving payments and the risk of fraud. The submission claimed that, while each of these costs might be small, in aggregate they account on average for no less than three per cent of the total transaction value.

The submission also cautioned against adopting models that only allow for partial cost recovery, as this could lead to poor customer experiences from drivers preferring cash over electronic payments. A final point made in this anonymous submission was that regulation of service fees may reduce competition between service providers because the better terms offered by banks to larger firms will give these firms a greater chance of surviving than smaller EFTPOS providers.

Cabcharge did not respond directly to the inquiry's Draft Report. However, it did respond to the inquiry's request for information in late 2011 and commented on the kinds of costs it incurs in providing payments and payments processing services. Cabcharge's response did not provide any specific details of its costs; nor did it make a distinction between its costs as a provider of payment instruments and its costs as a payments processor (or merchant) for processing third-party cards, such as Visa, MasterCard or bank debit cards. It keeps no records of how the 10 per cent fees it charges are apportioned between card providers, networks and any other parties.[4]

The inquiry also received some comments (including from Black Cabs Combined) that its proposal to open up MPTP payments to other EFTPOS providers using 'cloud' technologies may be risky and increase fraud.

A number of drivers told the inquiry that they receive some additional payments through the 10 per cent surcharge and that this source of income should not be lost to them.

14.3 Inquiry's response to submissions

14.3.1 EFTPOS approvals process

The inquiry considers that EFTPOS terminals are already sufficiently controlled via regulations and industry standards. Consequently, any ongoing regulation should be minimal and confined to the operation of the MPTP scheme. The inquiry's view is that regulations and unique requirements mandated by the regulator should be rationalised by:

- Removing all taxi-specific requirements for mobile EFTPOS terminals
- Retaining some taxi-specific requirements for those EFTPOS terminals that are hard-wired (fixed) to other in-cab equipment; however, transition to an industry certification framework should proceed as soon as possible, rather than continuing with the current government approval of this equipment.

The Australian Payments Clearing Association (APCA) and the RBA currently regulate payments processing and the inquiry sees no reason for State-based requirements other than in circumstances where EFTPOS equipment interacts with other taxi equipment or the EFTPOS equipment interacts with the MPTP system (where the Victorian Government is the scheme provider).

For example, the inquiry's view is that regulation or otherwise of contactless cards is the responsibility of the RBA and APCA and not the Victorian regulator. Other areas that would be subject to rationalisation would be:

- Compliance by the Payment Card Industry (PCI), which the inquiry considers is the responsibility of scheme providers to enforce
- Issuance of receipts, which is already regulated by the Australian Taxation Office (ATO).

MPTP

The inquiry is recommending that Victoria move to a more open MPTP scheme: in particular, that MPTP cards be accepted by industry standard EFTPOS terminals (assuming that such cards are used as the future payment instrument).

Use of 'cloud' technology has been recommended as one method to enable the secure transmission of the taxi fare between the taximeter and the EFTPOS device. However, as set out in the inquiry's draft recommendations, adopting this approach would require a formal design evaluation and commercial procurement diligence prior to

4 Letter from Cabcharge, 16 December 2011, p. 10

implementation. The commercial procurement diligence would need to confirm the security of cloud processing if this approach proceeds.

The inquiry's view is that Victoria should determine, based on risk, whether it needs the MPTP scheme to be PCI-compliant. If PCI compliance is required, the Victorian Government will need to take action to ensure that card issuers, acquirers and merchants meet this requirement. Similarly, it will need to decide what type of payment instrument to use (smartcard, contactless card or other) based on the expected risk associated with the payment instrument and the scheme.

14.3.2 Service fee for electronic payments

RBA developments since the Draft Report

Since the release of the inquiry's Draft Report, the RBA has issued a final statement concluding that card schemes should have the power to limit the surcharge levied on their cards to reflect 'the reasonable cost of card acceptance'. The RBA has issued a draft guidance note as to what this term means.[5]

This inquiry understands that Visa and MasterCard are likely to vary their schemes rules in line with the RBA decision. Further, MasterCard has already indicated that it will look to take action against merchants who are surcharging at excessive levels, with Vice President of Strategy, David Masters, specifically mentioning the taxi industry as one of several sectors "where very clearly people are surcharging not as a cost recovery method but as a way to pad out revenues".[6]

The findings of the RBA, and consequent permitted changes to Visa and MasterCard scheme rules, have been a relevant consideration for the inquiry, but are not sufficient for the inquiry to change its draft recommendations. The main reason for this is that the changes permitted by Visa and MasterCard are not mandatory and it is unclear what their effect will be on consumers and the surcharges they will pay for card acceptance. The inquiry's understanding is that the card schemes will have to enforce these rules through banks and financial institutions that acquire transactions from merchants. These acquirers may have only a limited incentive to enforce rules against merchants, as the merchants may seek to switch to an acquirer that will not enforce the rules.

Further, defining the 'reasonable costs of card acceptance' may prove a further barrier to enforcing the scheme rules. Despite the RBA guidance note, defining these costs is likely to remain very difficult as it will differ from merchant to merchant and depend upon what volume of transactions is considered 'reasonable' in relation to which particular fixed costs (such as the cost of terminals) are recovered.

Some evidence that change is unlikely is that Cabcharge has always been able to maintain a 10 or 11 per cent surcharge on processing Visa and MasterCard transactions, even when Visa and MasterCard had 'no surcharge' rules in place.

In summary, the inquiry's view is that:

- The reforms proposed by the RBA affect a different functional market than that addressed by this inquiry. The RBA's regulations apply to card schemes, with the proposed changes restoring some power to card schemes in their dealings with merchants. However, the inquiry's recommendations will focus on merchants and payments processors directly.
- It is unclear how successful Visa and MasterCard (and other payments schemes such as Amex that are not subject to the No-Surcharge Standards, except under voluntary undertakings) will be in reducing surcharges specifically for taxi services.
- While generally disinclined to support prescriptive regulation, the inquiry's view is that the surcharge is a clear instance of market failure.

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5 This term is discussed in a guidance note released by the RBA: "Accordingly, for each of the designated schemes mentioned above, the Standards prevent the scheme rules (or any participant in the scheme) from prohibiting merchants from recovering 'part or all of the reasonable cost of acceptance' of the scheme's cards through surcharges to the cardholder. The Standards state that for this purpose, the reasonable cost of acceptance includes, but is not necessarily limited to, the merchant service fee." RBA (June 2012), *Payment Systems Issues: Guidance Note for the Varied Surcharging Standards,* Attachment 3, accessed 25/9/2012 at http://www.rba.gov.au/payments-system/reforms/cards/201206-var-surcharging-stnds-fin-ref-ris/attachment-3.html. See also RBA (August 2012), *Guidance Note: Interpretation of Surcharging Standards*, Revised Draft, accessed 25/9/2012 at http://www.rba.gov.au/payments-system/reforms/cards/201208-var-surcharging-stnds-draft-guidance/guidance-note.html

6 The World Today, ABC, 13 June 2012, accessed 10/8/2012 at http://www.abc.net.au/worldtoday/content/2012/s3524080.htm

- Setting a prescribed surcharge also does not prevent credit card providers from enforcing a lower surcharge.

Accordingly, the inquiry's view is that its recommendations should proceed with some clarifications and amendments, including a strengthening of aspects designed to protect against fraud.

Impact on competition of reductions in payment fees

As identified earlier, concern has been expressed by suppliers of payments processing services that a reduction in the service fee will lessen competition between suppliers of these services. The primary reason for this concern appears to be that reducing the service fee will reduce the ability of processors to compete to get their processing terminals into taxis. Further, the proposed reduction in fees is seen as favouring Cabcharge, as Cabcharge gains economies of scale from being the only firm it allows to process its branded payment instruments (which account for some 30 to 40 per cent of electronic transactions processed on Cabcharge terminals).

The inquiry's view is that competition in a market is not measured by the number of firms that compete in the market. It is well established in Australian competition law that competition is a much more nuanced concept that encompasses rivalry between existing firms and barriers to the entry of new firms. For example:

> *Competition expresses itself as rivalrous market behaviour … In our view effective competition requires both that prices should be flexible, reflecting the forces of demand and supply, and that there should be independent rivalry in all dimensions of the price-product-service packages offered to consumers and customers. Competition is a process rather than a situation. Nevertheless, whether firms compete is very much a matter of the structure of the markets in which they operate.*[7]

It should also be remembered that competition is generally encouraged because it delivers, in ordinary circumstances, certain desirable 'ends'. These ends are primarily related to economic efficiency – generally, that prices should reflect costs and that those costs should be the lowest feasible. However, in some cases, competition does not function effectively to bring about these ends.

It is possible that reductions in service fees could reduce the number of firms competing to supply merchant services for taxi payments. However, this not certain. The main reason is that all firms will be affected by the cap on fees for electronic payments. Therefore, all firms will face a loss of revenue that is currently used to subsidise the use of their terminals by their other customers: taxi operators, networks and drivers.

However, even if there are fewer firms supplying services as a result of the reform, it does not necessarily mean that competition is lessened and that consumers will be worse-off. The market currently allows for payment fees to be set a level well in excess of efficient resource costs and this is encouraging firms to enter even at a scale that is less than efficient.

The inquiry notes that serious concerns remain about the effectiveness of competition due to 'upstream' market power held by Cabcharge. Cabcharge's strong position in the taxi-specific payment instruments market (or as part of a broader payment instruments market) and its ongoing refusal to allow competitors to process Cabcharge cards reduces the size of the market for Cabcharge's competitors in payments processing. Together with MPTP processing requirements, this provides a compelling reason to always have a Cabcharge terminal installed in a Victorian taxi. This problem is accentuated by the economies of scale that are available in payments processing; that is, many of the processing costs are fixed with respect to the number of transactions, meaning that average costs per transaction are likely to be higher for processors that cannot process all cards.

Access issues

NBG suggested the inquiry recommend an access regime be put in place for Cabcharge cards, to be overseen by the Essential Services Commission. NBG viewed this as the best way to address competition issues between payments processers, which would flow through as lower service fees and greater service innovation.

The inquiry is not convinced of the merits of introducing a State-based access regime to deal with the identified issues at this time, for two main reasons:

- It is not obvious that the benefits of setting up such a scheme would outweigh its costs, given that there are many other ways in which access can be sought; and

7 Trade Practices Tribunal, Re Queensland Co-Op Milling Association Limited and Defiance Holdings Limited (QCMA), ALR 515[40]; ATPR 17,246]

- It still may not address the market failure identified by the inquiry: even where there is competition between payments processors, charges for electronic payments may still not decrease to reasonably efficient levels.

In relation to the first reason, the inquiry notes that there is no absolute right of access in Australian law. Refusals of access (or supply) can be legal for many reasons. Under the *Competition and Consumer Act 2010*, refusals of supply are only illegal where they can be shown to involve a use of market power with the purpose of substantially lessening competition in a market.[8] The Australian Competition and Consumer Commission may take action to enforce this Act, although there is a right to private legal action and, ultimately, any enforcement takes place via the Federal Court. This can be a cumbersome and slow process. The inquiry notes that no party has been able to obtain access to process Cabcharge's payment instruments.

In certain cases, governments may also require access to be provided by firms with control of 'bottleneck' infrastructure. An access regime would require access to be provided on reasonable terms and conditions. Such regimes are in place on a wide range of 'bottleneck' infrastructure in Australia, implemented either through specific legislation or via provisions in the *Competition and Consumer Act 2010* (which includes Australia's Part IIIA national access regime for facilities of national significance).

Under the *Payment Systems (Regulation) Act 1998*, the Reserve Bank has the power to impose an access regime on a payments system and to establish standards with which participants in the system must comply. This Act defines a payments system as "a funds transfer system that facilitates the circulation of money, and includes any instruments and procedures that relate to the system".[9] The RBA has designated payments systems as being in the public interest and, under powers conferred in section 12 of the *Payment Systems (Regulation) Act 1998*, has imposed access regimes on a number of systems, including Visa, MasterCard, Visa Debit, EFTPOS and the ATM system. The inquiry understands that there is nothing to prevent the RBA from designating Cabcharge as a payments system and requiring it to give access to third parties in a specified way.[10]

The inquiry notes that there are already a wide range of powers in place to deal with the issues associated with access to payments systems. Further, the total amount of (net) revenue taken by payments processors in Victoria is in the vicinity of $30 million annually (based on total revenue of around $600 million and 50 per cent of all fares being paid for electronically). Even if Cabcharge's share is as high as 75 per cent, given that only 30 to 40 per cent of transactions on Cabcharge terminals are Cabcharge cards, it appears that net revenue only amounts to $9 million each year. It would be difficult to justify the costs of introducing a new State-based regime to deal with this amount of revenue. However, at a national level, the cost-benefit calculation may look quite different because there are already regimes in place (including an industry specific regime) and the total revenue across Australia is more significant.

The inquiry has concluded that the ACCC and the RBA are best placed to deal with payments systems issues at this time, including the provision of access by Cabcharge. However, in the event that access to Cabcharge payment instruments remains a significant issue in the next two years, the inquiry recommends that the Victorian Government refer the matter to the ESC to develop an access regime.

As a final point, the inquiry notes that the proposed regulation of service fees should not limit Cabcharge's ability to compete with other payment instruments (such as Visa branded cards). Cabcharge can still compete with other non-taxi-specific instruments because it has a billing relationship with its card holders and can levy any fees associated with the provision of payments services.

The allowable level of the service fee or surcharge

The inquiry recognises that regulation of the kind proposed is costly. If not done well, it also has the potential to be more harmful than the perceived problem it seeks to address. Nonetheless, the inquiry considers that it has identified a market failure – and a regulatory failure associated with the MPTP – linked to a lack of fare competition between taxis that is imposing significant detriment on consumers. This provides the basis for some form of regulation of service fees or surcharges.

The inquiry's draft analysis of the issues focused on the resource costs of providing payments services and on transfer payments that flow from end-users to other market participants (drivers, operators and/or networks). In

8 Section 46 *Competition and Consumer Act 2010*

9 Section 7 *Payment Systems (Regulation) Act 1998*

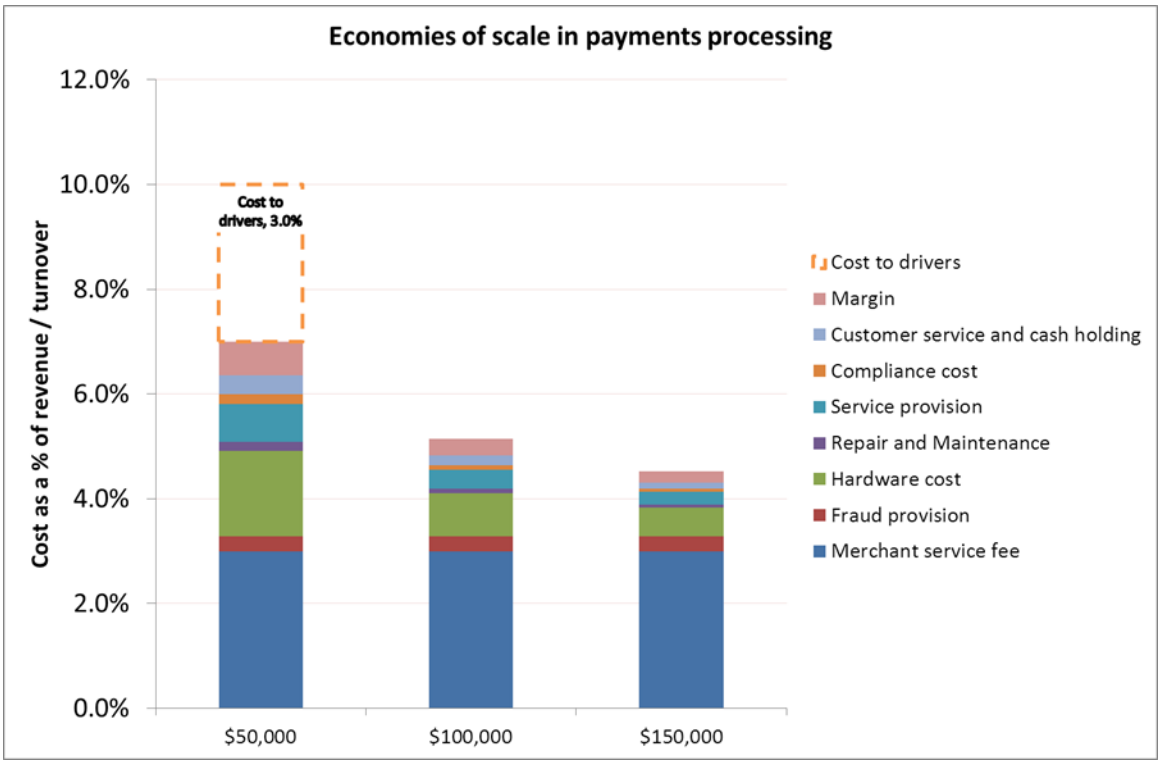
10 See Visa International Service Association v Reserve Bank of Australia [2003] FCA 977 (19 September 2003), which discusses the application of the *Payment Systems (Regulation) Act 1998*

principle, the inquiry considers that only resource costs, including a reasonable rate of return on invested capital, should be recovered from end-users.

The anonymous submission received by the inquiry provided some detail about the quantum of costs experienced by service providers. This evidence claimed to highlight the 'high cost nature of EFTPOS in a low turnover environment'. The inquiry notes that the costs presented in this submission are all expressed as a percentage of retail turnover (revenue). This is notwithstanding that many of the costs described are likely to be fixed in nature with respect to individual transactions or to the number of terminals that are actually in the field. These costs are therefore likely to be particularly subject to economies of scale, reducing unit costs.

A key question in seeking to understand the efficiency of costs and prices is what level of turnover and/or terminals would represent minimum efficient scale? The following figure is based on data supplied in the anonymous submission and shows that a 10 per cent fee might recover costs for a terminal that is used to process $25,000 worth of transactions (the submission does not specify at what level of turnover the percentages are calculated), but recovers well in excess of costs for a terminal that processes $150,000. Without challenging the quantum of costs more broadly, it is clear that a lower surcharge could be consistent with cost recovery by an efficient operator who puts through around $100,000 in transactions (which includes a 0.65 per cent margin over identified costs). Costs may be further reduced by spreading some fixed costs over a greater number of terminals and negotiating a lower merchant service fee (as these also appear to vary with merchant turnover to a degree).

Figure 5 Illustration of costs of processing payments



Source: Based on data supplied in anonymous submission E479 and TII analysis

In Figure 5, driver costs are shown in the first column. The inquiry does not consider three per cent of revenue to be a reasonable estimate of driver costs in accepting electronic payments. First, an assessment must be made about the incremental cost to the driver of accepting electronic payments over cash. It is obvious that there is one significant benefit to the driver of accepting electronic payments: they hold less cash in the vehicle, making them less susceptible to crime. In addition, some elements of 'cost' (such as revenue foregone from cash tips) more properly relate to driver remuneration in general. The inquiry does not support electronic payment fees being used as an income source or supplement for drivers. Therefore, while there may be some additional driver costs from accepting electronic payments, the quantum of these is likely to be far less than the three per cent put forward.

The inquiry's view is that its recommendation that five per cent should be more than sufficient to recover resource costs for an efficient operator remains pertinent. The inquiry also maintains its view that this should be subject to

oversight by the fare regulator, which can conduct a more detailed investigation into costs and minimum efficient scale of operation.

Will reducing service fees lessen incentives to accept electronic payments?

A key potential detriment from the inquiry's recommendation might result from reduced incentive for taxis to process electronic payments. In particular, if the costs of processing are such that they exceed the benefits from processing, then drivers or taxi operators may steer passengers towards paying with cash (all Victorian taxis are required to offer an electronic payment service, but drivers may be able to influence passenger behaviour).

The inquiry considers such an outcome is unlikely. As long as the merchant or payment provider can recover all resource costs and a reasonable rate of return on investments made, they will have an incentive to supply equipment to operators and drivers.

Further, it is also not strictly necessary to recover all resource costs on 'one side' of the market. Taxi operators and drivers receive some non-cash benefits from electronic payments processing, particularly in lowering the risk of theft or robbery. In fact, it is far more common in the broader retail sector for retailers to offer the same price for cash or electronic payment options, reflecting that in many cases the net benefits of accepting electronic payments are not that different from cash.

There are further benefits to consumers from the use of taxi-specific non-cash payment instruments (such as the Cabcharge charge card) including the provision of a line of credit, detailed records of travel expenditure and a reduced risk of fraud or misuse. This makes them popular for corporate and government use.

A further strand of this argument is that merchants may no longer be inclined to accept cards with particularly high merchant service fees, such as American Express. (The inquiry understands that the three per cent average expressed above is actually a blended merchant service fee, with actual fees for some card types below this and some above). This is ultimately a commercial decision for merchants and for card schemes, which see the taxi industry as particularly high risk due to high incidence of fraud and paper-based payments. Consumers should not be expected to pay for poor control of fraudulent behaviour.

Jurisdictional issues

The issue of whether the Victorian Government has the power to regulate fees charged for payment of taxi fares was also raised (albeit obliquely) by some market participants. The inquiry's view is that there is nothing to stop the Victorian Government from taking action to prevent merchants from levying fees perceived as excessive via changes to licensing conditions or through making specific regulations. Commonwealth actions in the payments sphere have not extended previously to the levying of surcharges by merchants; indeed, in its initial consultation paper on merchant surcharging, the Reserve Bank has explicitly acknowledged that RBA standards only apply to payments systems (and participants in payments systems) and not to merchants: "Given that the Bank has no direct influence over merchant pricing, either approach would best be implemented by allowing the schemes to alter their rules to incorporate the cap".[11]

14.4 Final recommendations

13.1 Barriers to entry into payments processing should be reduced, by changing arrangements for the Multi Purpose Taxi Program (MPTP) scheme and changing the approvals process for EFTPOS devices in Victorian taxis.

Regulations and the unique requirements mandated by the regulator for EFTPOS terminals should be rationalised and all taxi-specific requirements for mobile EFTPOS terminals removed as part of a transition to an industry certification framework. This should commence immediately and replace the current approval of this equipment by the State. During the transition to the new certification framework, minimal taxi-specific requirements for those EFTPOS terminals that are hard-wired (fixed) to other in-cab equipment should be retained.

13.2 A new standard should be established for the processing of MPTP cards and this should be made available to future card payment providers. This would involve allowing any EFTPOS terminal to process MPTP cards by permitting taxi fare data to be acquired by EFTPOS terminals via newer 'cloud'

11 RBA (June 2011), *Review of Card Surcharging: A consultation document*, p. 7

technologies, rather than only via the current requirement of a hard-wired link with the taximeter. The new standard should be sufficiently technically robust to control fraud under all operating conditions. Adoption of this recommendation will require a formal design evaluation and commercial procurement diligence, prior to implementation.

13.3 The 10 per cent service fee levied on the processing of electronic payments should be brought under regulation and set at a level that better reflects the resource costs of providing the service. The inquiry recommends this fee be set at five per cent of transaction value as a maximum amount that can be charged, until subject to a further evaluation by the Essential Services Commission.

13.4 More broadly, if payments processors continue to have difficulty in obtaining access to Cabcharge payment instruments, the Victorian Government should ask the Reserve Bank of Australia to consider designating Cabcharge as a payment system and impose an access regime requiring it to give access to payments processors on reasonable terms.

13.5 Removal of the service fee regulation applying to the processing of electronic payments for taxi fares should occur when competition is more effective in this area.

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PART D – IMPLEMENTING REFORM

15 Improving services in country Victoria

The inquiry has given very careful consideration to the impact of its recommendations in country and regional hire car and taxi markets.

As discussed in chapter 16 of the Draft Report, country and regional markets have a number of distinguishing features. These include smaller market sizes, less developed public transport networks, proportionately higher demand by elderly customers, high rates of pre-booked services compared to rank and hail work, higher market concentration of networks and a model of operation dominated by owner-drivers.

The Draft Report discussed the major issues facing country and regional markets. These included the poor availability of services in some locations, the dominance of local networks (and high network charges), the cost burden imposed by the current regulatory framework and the limits to competition under the public interest test. The inquiry found that country and regional markets had experienced only modest growth in supply of taxi services, with a number of constraints preventing the growth of businesses, service innovation and competition.

Issues relating to country Victoria as a result of the inquiry's licensing and zoning recommendations are canvassed in detail in chapters 3 and 4 of this report. This chapter discusses specific concerns and matters raised with the inquiry by country taxi operators, networks, local councils and taxi users, and should be read in conjunction with chapters 3 and 4.

15.1 Issues raised in submissions

Around 25 per cent of country and regional NSPs provided a submission to the inquiry, as well as many licence owners, particularly from larger towns like Bendigo, Ballarat and Geelong. Many respondents supported key elements of the reform package including allowing advertising on vehicles, removal of yellow livery requirements, the shift to outcomes-focused regulation and recommendations covering driver training, safety and accessibility. There was also strong support for recommendations designed to encourage greater flexibility in services, allow taxis to operate bus-like services and better integrate taxis with community and public transport.

Regional NSPs strongly endorsed the proposed moratorium on safety cameras, retaining vehicle age restrictions, changes to MPTP eligibility and a stronger regulator presence in regional Victoria.

Submissions from networks and operators expressed strong disagreement with the key recommendations covering licensing changes, zoning, network affiliation and driver remuneration. As licence owners, these respondents were concerned about the impact of greater competition and the loss of value of their licences. Examples of typical comments were:

> *I do not feel that market forces are appropriate to determine the number of taxis needed. The country taxi services as found in the inquiry do not have the same issues as Melbourne as [sic] must be looked at differently.*[1]

> *Country taxi business are mainly family businesses operated from people who have dedicated their lives into this industry and I do not feel it is justified to remove the public interest test so as to have licences granted again for a set price, this just undermines the whole structure of the system and the way it works. People have paid money and built these businesses from scratch and to do this would start to diminish their livelihood.*[2]

> *There are enough Taxis to supply the demand in the area I live. To allow other Taxis into the area would be very detrimental to the existing Taxis which are struggling to keep their head above water as it is.*[3]

While not supporting the inquiry's recommendation for 'as of right' licensing, some submissions from regional operators suggested more taxis were needed urgently and that the regulatory impediments to entry in country areas needed adjustment:

1 Donna Ablett submission 304, p.2
2 Anonymous submission 1036, p.13
3 Anonymous submission 472, p. 2

> *In Bendigo every member of the Cooperative realises that we need about 5 more taxis in our ever growing town, right now. In fact we applied to the VTD about acquiring two more WAT licences 9 months ago and have since been given nothing but the run around. The issuing of more taxi licences is required urgently but certainly needs to be regulated by the population of any area to be serviced. To undertake an open slather approach will almost certainly have a negative impact on customer service levels and availability standards that we have worked hard to build up in our community.*[4]

Networks argued that without a public interest test and mandatory affiliation, there will be a flooding of the market at peak times and that no operator will choose to service the quiet periods. Networks also suggested they will not run a 24/7 operation if independent operators are not required to do so and that, as a result, the community will lose all services at certain times of the week.

Networks put forward the suggestion that a formula driven method be employed to determine future licence releases, taking account of population increase, existing public transport, demographics, wait times and general demand for services. Other suggestions by networks included the release of licences to the incumbent network so the network can lease out the licence to a driver. One respondent at the inquiry's hearings suggested that career drivers with more than 10 years' experience be given a licence.[5]

The 60/40 driver remuneration was considered unviable for networks, with many stating their operating profit would fall so much they would have to sell their businesses.

> *We vehemently oppose a 60/40 bailment. To take that percentage out of our gross income and give it back to the drivers will put us into a negative earning capacity, simple as that. It's negative earning, we don't have to tell you again that that will put us out of business.*[6]

Some submissions stated that if this arrangement becomes mandatory, they will find ways to pass on other costs to their drivers.

Country networks stated that they already provide a high quality of service for their customers and, as such, no change to the current regulatory environment or industry structure is needed. There was a common belief that the inquiry's recommendations represented a 'one size fits all' approach based on the deficiencies of the metropolitan taxi market.

> *Like most of the regional areas, we're a little perplexed as to the reasons for the need to overhaul our services given the high customer service satisfaction results from surveys undertaken throughout regional areas.* [7]

> *This is where our problem with the inquiry is: our service doesn't need fixing. We run an impeccable service, a very high standard, our clients are absolutely ecstatic with what we offer.*[8]

There were few submissions from user groups or local governments in country areas in response to the Draft Report. However, one submission from a taxi user in rural Victoria was supportive of the removal of entry restrictions, believing it has the potential to increase the number of vehicles servicing small towns. If the country licence was priced more reasonably, this submission suggested that:

> …*long suffering rural communities across Victoria will finally have a taxi service. Importantly it will be a viable business for the local entrepreneur.*[9]

The East Gippsland Council submission expressed concern for the viability of local taxi businesses as a result of the new proposals and put forward modelling of the financial flow-on effect that the loss of a taxi business would have on the local economy and community.[10] The Council suggested new entry could lead to customer confusion, compromised safety and disputes amongst drivers. The new zoning and licence proposals were concerning to the Council as they believed this model would pose equity issues and threaten the viability of operators and WAT vehicles. Overall the Council sided with the views expressed in taxi operator submissions.

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4 Jason Tully submission 1058, p. 16

5 TII hearings, submission by Mr Tuna Guclu, Crown Cabs, 14 August

6 Anonymous submission 369, p. 8

7 TII hearings, submission by Mr Stephen Armstrong, Ballarat Taxis, 14 August 2012

8 TII hearings, submission by Mr Max Hood, 14 August 2012

9 Howard Pascoe Consulting submission L149, p. 4

10 East Gippsland Shire Council submission, E506, p. 9

The Yarra Ranges Shire Council submission strongly supported the introduction of a PBO model and revision of zoning boundaries to accommodate greater competition and availability of services. The submission also supported greater choice of vehicles, allowing in-cab advertising and continued subsidies for WAT training. Adjustments to some of the draft recommendations were suggested to enhance the safety and accessibility attributes of the reforms.[11]

The Council's sentiments were echoed in a submission from a resident of the Yarra Valley, who commented:

> *I'm not sure whether it is boundary regulation, licensing constraints or market viability to blame, but I do know that the lack of taxis in our region is a great limiting factor to the growth and development of our tourism industry and a very poor service to local residents. I know many people that resort to drinking and driving as a direct result of the lack of access to taxis.*[12]

The submission from Westmont Aged Care Services stated that extra taxi licences would not lead to a better service provision in the Wodonga region. The submission argued that competition may introduce a lesser service quality to the detriment of elderly passengers.[13]

The inquiry also received a submission from B-Line, a Transport Connections program based in the Bendigo and Loddon area. B-Line requested that the inquiry look further into the integration of taxi and hire car services with other public transport services, particularly for customers with mobility or accessibility needs.[14] The submission also made suggestions for greater flexibility of taxi and hire car services, sentiments echoed in the submission from the East Gippsland Council.

15.2 Inquiry's response to submissions

The inquiry does not agree with the reasoning put forward by many country networks: that because they believe they are providing a high quality service, the underlying regulation of the industry is working and should not be changed. The inquiry has no doubt that many country taxi operators are providing an excellent service and are dedicated to serving their local communities. Indeed, the inquiry's Draft Report noted that the standard of taxi services was appreciably higher in country areas. However, this is not a reason to deny opportunity to others, to impede competition or to reject the notion that improvements could be made – especially in light of the clear evidence of poor availability of point-to-point transport in small country towns and some regional centres.

The inquiry's strong view is that, while service performance is higher in country areas in terms of driver quality and service reliability, the argument is self-serving and fails to acknowledge the potential benefits of reduced regulation and increased competition for both consumers and industry participants. An inherent assumption in these remarks is that only incumbents have the ability to provide taxi services in a particular location.

The inquiry also notes that the issue of taxi availability is also a service performance issue – one that goes largely unacknowledged by incumbents.

The inquiry does not consider that its draft recommendations represent a 'one size fits all' approach to reform. Indeed, if anything, the opposite is the case as the inquiry has sought regulatory solutions that reflect differences in industry structure: for example, in relation to fare setting and uniform livery requirements. Nor do the draft recommendations reflect a 'metropolitan only' focus. The inquiry has found inefficiencies specific to regional Victoria and major gaps in service availability. It is clear that operators are subjected to unnecessary costs and have little opportunity to work outside the small service 'box' defined by their licences. The inquiry is surprised that more country networks do not see the potential offered by the draft recommendations to expand their businesses by purchasing more taxi or PBO licences, enabling them to provide more flexible services and open up new markets for services.

There is little evidence to suggest that there will be a 'flood' of new entrants to regional and country markets. Incumbent operators will have a significant market advantage and new entrants will have to incur significant costs associated with the acquisition of their licence and other set-up expenses. New entrants will still have to assess whether they can maintain a viable operation.

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11 Yarra Ranges Shire Council submission L172, p. 2

12 Simon Holloway submission 91, p. 2

13 Westmont Aged Care Facility Ltd submission E357, p. 1

14 B-Line submission E431, p. 8

Many in the industry opposed the new zoning and pricing proposals, suggesting they will devalue licences and encourage 'poaching' of pre-booked work from outside the zone. The draft recommendations noted the importance of zones being the primary place of work for a vehicle and that if regular movement out of zone becomes an issue, a stepped-up enforcement task will be required.

Very few submissions discussed how the new zoning price structure would materially devalue their licences; however, the inquiry acknowledges the points raised in submissions around the sale value of country licences including the goodwill of the operator, success of the business and assets such as depot infrastructure and vehicles. In light of these suggestions, the inquiry has reviewed its proposed zoning arrangements to give greater weight to other factors such as town population sizes, as well as licence values (see chapter 3).

The inquiry notes the concerns expressed by regional operators about the effects of more entrants on the requirements and incentives to service passengers at non-peak times. However, the requirement to provide continuous service is not widely followed at present and the inquiry is sceptical that new entry would cause a major loss of service.

The inquiry is perplexed by the mixed messages from many country networks:

- Many networks argued against 'as of right' licensing because it will introduce more taxis to regional Victoria and affect the viability of businesses, which are already 'marginal'. However, many of these same submissions also discussed the rise of an ageing population and the need for greater access to specialised transport care as public transport is inadequate in many regional areas. Analysis by the inquiry shows that regional and country areas have on average fewer taxis per head of population compared to metropolitan Melbourne, but (as operators have told the inquiry) a higher dependence on taxis.
- Submissions also discussed the close relationship between networks and the local community and the 'extra mile' the network will go to provide a good service. Yet they also claim that 'as of right' licensing will bring in 'cowboy' operators who will poach the most profitable work. The inquiry has heard no compelling evidence as to why long time, well-served customers will make use of poor service offerings. Only in a market of low supply will this occur as customers have no other choice. Lower barriers to entry are as much an opportunity for incumbent operators to expand their services as they are for new players to enter the market.

Many networks supported retaining the public interest test, arguing it provides country towns with 'security' that their taxi businesses will remain viable. However, such restrictive regulation places great faith in existing service operators. The significant conflicts of interest associated with applying a 'public interest' test mean it will never be a truly objective measure of a town's need for additional services. The public interest test (together with the formula driven metric proposals put forth in submissions) does not account for unmet demand and new opportunities for service providers. As noted elsewhere in this report, the inquiry considers such entry restrictions to be inherently anti-competitive in that they protect incumbent businesses from competition in locations and periods when a greater range of options could be of substantial benefit to consumers. If, as networks suggested, the service cannot be bettered in a particular local community, there seems no reason for a competitor to establish themselves. A more likely scenario – given the familiarity customers are likely to have with existing networks – is that any new entrants will need to align with the incumbent operator to establish and grow their businesses.

The inquiry considers that there is no justification for a public interest test, especially one that includes consideration of the impacts on other competitors or that allows other competitors to object on commercial grounds.

However, the inquiry is also firmly of the view that 'as of right' licensing will only result in additional licences where there is a clear demand for the extra service. As noted above, the start-up costs are significant. Incumbent operators, networks and drivers are also in an advantageous position (compared to new entrants) to capitalise on their investment by growing the local network if they believe there is latent demand for their service.

The biggest losers from maintaining a highly regulated taxi market in country areas are customers. Customers are faced with limited choice of service, a highly regulated tariff system and inflexible point-to-point transport options. These customers stand to benefit from a relaxed entry requirement, particularly in relation to a greater availability of services during peak periods.

Regional tourism businesses also stand to benefit from these changes, particularly those located in areas adjacent to metropolitan Melbourne such as the Yarra Valley, the Mornington Peninsula and the Bellarine

Peninsula. More taxis in these and other country areas may also help to reduce the documented problems of drink driving in country areas associated with a lack of transport options.

15.3 The inquiry's final recommendations

The inquiry remains of the view that the form of restriction on taxi licence numbers should be changed to one based on price. This will leave the decision about entering the country taxi or hire car market to those best placed to make the commercial judgement about whether they can operate a service profitably in a particular area. Over time, this should lead to a better matching of supply with demand for services, increasing the availability and type of services in many country areas.

As noted above, the inquiry has reviewed its zoning recommendations in light of concerns raised by country networks and others. These changes are set out in chapter 3.

The inquiry's recommendations will also remove unnecessary regulation and 'red tape' for country and regional operators. Many of these regulations were imposed across the State to address issues that are largely metropolitan-based. Operators and networks should benefit from advertising opportunities and the removal of the uniform livery requirement. The removal of the continuous service provision will also give operators a much greater choice around the services they offer and enable them to better match services with community needs.

The inquiry has maintained its position in relation to a price notification system in Regional and Country zones. The adoption of this system will put greater control in the hands of country operators and ATOs, allowing a tailoring of services and prices to the costs of running their businesses. Removal of such restrictions will also encourage greater flexibility, innovation and choice in taxi services.

In relation to training, the final recommendations will encourage mentoring new drivers 'on the job'. The recommendations also include the continuation of the WAT Performance Based Booking Service in Regional and Country zones and the continuation of the WAT vehicle subsidy scheme in the short term.

Revenue for country operators should be boosted by allowing shared ride and fixed route services and allowing taxis to provide community transport when it is efficient to do so. Taxi operators may also choose to run bus-like services that take in a broader catchment than their current operations. The expansion of the MPTP to older people no longer able to drive and permitting advertising should further boost income, as should reducing operator and network costs through more streamlined accreditation.

In short, the inquiry's strong view is that its proposed reforms offer significant new opportunities for country operators and networks, as well as opening up the prospect of more flexible and responsive services – and a greater availability of services – to customers in regional Victoria.

16 Effects of reform on industry participants

The reforms recommended by the inquiry will impact upon participants in the taxi and hire car industry – that is the nature of fundamental regulatory reform. Having proposed reforms, a subsequent step is to consider whether there are additional public policy issues associated with the effects of the reforms that the inquiry should bring to the attention of the Victorian Government as it considers the inquiry's recommendations and the transition to the proposed new industry model. This chapter sets out the inquiry's expectations regarding the likely major effects of the reforms on the various categories of industry participants.

16.1 Reform impacts on industry sectors

The proposed reforms will affect individuals and businesses in the taxi and hire industry in differing ways and to varying degrees. Most industry participants will face some adjustment to changed circumstances. In some cases, adjustment will present business opportunities and be seen as positive; in others, adjustment will present challenges or difficulties and be seen as negative. The inquiry's assessment of the main impacts on industry participants is set out below.

16.1.1 Taxi drivers

There are approximately 15,000 active taxi drivers in Victoria, of which more than 12,000 work in the Melbourne metropolitan area. There are currently 24,000 persons with a valid driver accreditation. Turnover of drivers is high, requiring 1,500 to 2,000 new drivers to be trained and accredited in Victoria each year. The vast majority of drivers are neither licence owners nor operators, but bailee drivers.

The inquiry's Draft Report and this Final Report recognise the important role that taxi drivers play in providing a service to customers that meets their expectations. Despite this key role in the provision of taxi services, drivers work under relatively poor conditions and have low levels of remuneration. Consequently, many of the inquiry's recommendations target improvements for taxi drivers.

The proposed reforms would give existing taxi drivers improved bargaining power with taxi operators and provide protections for drivers through the introduction of a new mandatory Driver Agreement. This agreement will provide more certainty to drivers about their role in delivering taxi services and delineates responsibility for expenses such as repairs and maintenance and damage caused in the event of an accident. In addition, the recommendations aim to improve very low levels of driver remuneration through increasing the driver's share of taxi revenue from 50 to 55 per cent. The reforms also offer a better career opportunity to drivers through obtaining their own licences from the Government for a fixed annual fee. Drivers would be protected to some extent by the proposed measures that will lead to tougher entry conditions for drivers. In effect, this will raise the costs of driver supply, thereby improving the bargaining position of drivers as a whole.

Those tougher driver entry requirements, combined with increased remuneration arrangements, will likely lead to a change in the demographic of new drivers. The requirements will require applicants to have a greater understanding of local knowledge, road rules and communicating in English. Increasing remuneration while retaining an incentive based earning scheme will put taxi driving more on par with employment in other sectors such as manufacturing. Taxi driving offers other benefits, such as flexible working hours, that when combined with satisfactory conditions and increased remuneration should attract new participants and may even result in drivers returning to the industry.

Taxi operators will have clear responsibility for vehicle running and repair costs (including fuel costs) under the new mandatory Driver Agreement. Operators will need to be more selective about the drivers they choose, to minimise their vehicle costs and maximise vehicle utilisation.

16.1.2 Taxi operators

There are approximately 3,000 taxi operators in Victoria. While there are a number of large and medium sized fleet operators, the majority of Victorian taxis are operated by people who manage only one or two taxis. In some cases, operators own a single vehicle and drive it themselves, bailing to another driver when they are not driving the vehicle. Operators purchase the taxi vehicle and are responsible for the maintenance of their vehicles and for

meeting the administration requirements for their taxis, including driver payments and bailment agreements, network affiliation fees, assignment fees (unless they are an owner-operator) and vehicle insurance.

In Melbourne there are three main categories of operators:

- Operator–driver with one or two cars
- Medium fleet operators (either owning licences or leasing, or commonly a mix of both)
- Large fleet operators (either owning licences or leasing, or commonly a mix of both).

These categories of operator have very different business models: indeed, different operators within the same category may choose to run their businesses in distinct ways. Measuring the impact of the reforms is difficult because the degree of impact will depend upon individual operators and their ability and willingness to adapt to a changing market. In broad terms the major impacts are:

- A reduction in the costs of taxi operators who lease licences, mostly in the range of $27,000 to $30,000 per annum to around $20,000 per annum
- Taxi licence owner-operators paying more to drivers under the proposed fare revenue split between drivers and operators under a mandatory Driver Agreement. Those operators leasing licences will have an offsetting reduction in assignment costs; those owning the licences they operate will not have offsetting assignment cost savings available to them.

The reduction in the market value of licences of operators who are also licence owners is discussed in section 16.1.4.

Responses to the Draft Report included views from some in the industry that the inquiry is favouring an operator-driver approach to delivering taxi services and that the reform will lead to the demise of larger fleet operators. While the inquiry acknowledges that the reforms will lead to structural changes and that new entry is likely to be a more attractive proposition for an operator-driver business structure than at present, it does not agree with such a conclusion. A range of taxi business models can be accommodated under the inquiry's proposals, particularly given the changes the inquiry has made to its draft recommendations around driver remuneration.

Operator-driver with one or two vehicles

Operator-drivers are the traditional taxi operating model of the Victorian industry. While there has been a move away from this model in more recent years, operator-drivers remain a significant component in the industry. The taxi industry has experienced a 'generational change' of sorts: most initial licence holders have now retired from the industry and licences have either been transferred to a new cohort of industry participants or retained by the retired driver or his or her family and assigned to operators who pay a monthly fee to access the licence.

The broad owner-driver category also includes those licence holders who have been issued with licences by the Victorian Government in more recent years. These licences have a common characteristic in that the licences must be operated by the licence holder and cannot be assigned. These licence types represent around 25 per cent of the fleet in metropolitan Melbourne and include peak service licences and 10-year fixed term licences issued in 2010 and 2011.

Reforms focusing on reducing assignment fees and increasing driver remuneration will have varying impacts within this group. Those operators who assign a licence will experience reduced costs as a result of cheaper assignments. On the other hand, the new mandated Driver Agreement will have limited effects because this category of operator is also likely to be the main driver of the vehicle. A second driver is required in order to maintain a 24-hour service and increased remuneration for this driver will result in higher costs for these operators. However, the reduction in assignment costs will go towards offsetting these payments.

Where licences have been acquired from the Government – such as the peak service licences and the recent fixed term licences – operators should be no worse off than the above scenario, as transitional arrangements will ensure that their annual costs are roughly equivalent to the market price for assignments.

Operator-drivers who own their licences fully will be affected more than most within this category as they will experience an increase in driver costs without the corresponding reduction in assignment fees. However, other elements of the reforms will be of benefit to these operators and will lead to lower operating costs. For example, the removal of mandatory network affiliation will be of interest – and potential benefit – to this cohort as they are

experienced taxi operators who are likely to have their own client base and may not be obtaining sufficient value from the major networks to offset high affiliation fees.

More than two vehicles

Taxi businesses of all sizes have noted a steady decline in the availability of new drivers to the industry. Recommendations such as the introduction of the Knowledge exam and improved conditions for drivers through the mandatory Driver Agreement (including the increased fare box split of 55/45) will likely attract a better quality driver to the industry. The cost of funding higher driver remuneration will be offset for these operators by the commensurate reduction of licence assignment fees.

Fleet operators are also expected to reap the benefits of the removal of mandatory affiliation as this will improve their bargaining position in negotiating membership with the existing networks. In the longer term, fleet operators may re-evaluate the need for some of all of their fleet to be members of a network.

Inquiry reforms to collect performance data will be of benefit to fleet operators by putting in place technology that captures and provides all trip and shift data directly to the regulator. This data should then be more readily available to the owner of the information – the relevant taxi operator – for business planning purposes. To date, this information has been difficult, if not impossible, for operators to obtain from existing networks and could be of real benefit in managing the performance of drivers and vehicles.

Large fleet operators

The inquiry has become well acquainted with several large fleet operators over the duration of its investigations. These operators generally have fleets of more than 100 vehicles that they lease mostly from licence holder investors with small holdings. Many also hold a number of taxi licences they have acquired themselves over the years. These licences are held in numerous entities and are often owned by family members of the principal operators.

These operators are very well set-up. They have large premises that often provide a number of vehicle operations on-site, including engine mechanics, transmission specialists, auto electricians, panel repairers and spray booths. They buy equipment in bulk and often import vehicle parts directly from overseas. Many have conducted their own driver training courses or have close links to Registered Training Organisations (RTOs) providing driver training.

These large taxi operators appear to remain profitable largely by using their buying power to drive down the cost of their supplies and from the efficiencies generated from undertaking a range of complementary services such as vehicle repairs. That bargaining power has been constrained in the regulated market of taxi licences and NSPs. As a result, and like small taxi operators, these operators suffer high licence assignment prices and low levels of service from NSPs.

In addition to the benefits of the reforms experienced by smaller fleet operators (as discussed above), larger fleet operators have further opportunities arising from their purchasing position. Large fleet operators could obtain additional revenue by encouraging new entrants to use their services at competitive rates. Services that large fleet operators could provide competitively compared to other non-taxi industry providers include vehicle procurement and fit-out, scheduled maintenance, vehicle crash repair, recruitment and training of drivers and electronic payment processing. Large fleet operators may also have the opportunity to leverage their buying power to grow into new networks and provide niche services directly to customers.

16.1.3 Network Service Providers

Primary NSPs (Authorised Taxi Organisations in the future)

The inquiry's recommendations relating to primary NSPs focus on improving the availability of service related information for customers and removing unnecessary regulation that stifles competition.

The removal of the regulation that mandates affiliation with an accredited NSP will undoubtedly be seen by NSPs as a threat to their current market position and profitability in the short term. However, the inquiry does not expect that this will result in dramatic, immediate changes to the way that network services are delivered. This is because most taxi operators will consider that network affiliation is a necessary business input cost. The inquiry has found that 30 per cent of all taxi trips in Melbourne arise from a booking with a primary NSP. While this figure is substantially lower than the 50 per cent previously publicised by the industry, it remains a significant source of revenue for most operators. There are also the cost implications of independent operation to be considered by

operators in making a decision about whether to remain affiliated with a network (such as meeting safety requirements by using an alternative provider to a network).

The inquiry's view is that, while a number of taxi operators may perceive poor value in continuing to affiliate with a network (and may choose to cancel their membership with a primary network), the vast majority of taxi operators will remain affiliated because they are not able to easily replace the revenue that would be lost through less pre-booked work. Those operators who are likely to cancel their affiliation will be those that have developed a sufficient client base of their own to provide them with adequate pre-booked work. While this may lead to a slight reduction in profitability for NSPs, it will mean increased profitability for those taxi operators. The inquiry considers this to be an efficient outcome because only taxi operators who value the services of a booking network will pay for these services.

In the longer term, the reforms may have a greater impact on incumbent NSPs as an increase in competition may become a more significant threat. Existing NSPs will need to adapt their services to meet the demands of a changing market. The inquiry is aware of many examples where existing networks have displayed insufficient regard for consumer and taxi operator interests. One example is the refusal to provide customers with information about the expected time of arrival of their taxi (the use of 'next available' language featured highly in customer dissatisfaction with booking services, as noted in the inquiry's Draft Report). A further example is the pricing structure for networks whereby all taxi operators pay the same rate per vehicle regardless of the number of jobs they receive or their operating conditions. Notably, peak service taxis pay the same monthly rate despite being allowed to only operate 16 hours per day. Again, the inquiry considers that potential adaptations around these issues will have positive customer outcomes as they will encourage the more efficient operation of networks and will result in improved service quality for taxi users.

Secondary networks

Secondary networks are expected to grow significantly as the benefits of the reforms are realised. As discussed above, taxi operators who have their own established client base can move away from the services of NSPs. In this instance, these operators may increase their involvement with secondary networks as an alternative source of pre-booked trips.

The reduction in the requirements for obtaining approval as a primary NSP (or ATO in the new framework) may lead to secondary networks making the decision to seek approval as an ATO. Doing so would entitle them to develop a greater presence with customers and, in turn, attract new permit holders who choose to acquire a fixed term licence from the Government.

16.1.4 Owners of taxi licences

There are approximately 3,554 owners of 5,249 taxi licences, across three main types of licences and two vehicle types:

- Perpetual, transferrable and assignable licences for conventional and wheelchair-accessible taxis
- Fixed term (10 year) licences that are transferrable, but not assignable, for conventional and wheelchair-accessible taxis
- Peak service licences (permitted to operate between 3pm and 7am) that are neither transferrable nor assignable, for conventional metropolitan taxis only.

The impacts of the proposed reforms on owners, which will vary according to the licence type and role owners play (if any) in the operation of taxi services, are discussed below. This discussion here focuses on licences for the Metropolitan Melbourne zone. Issues arising from the effects of the proposed reforms for the Country zone (the zone differing most from the Metropolitan zone) are discussed in chapter 15.

Owners of peak service taxi licences

There are currently 585 peak service licences, which were introduced between 2003 and 2009. Peak service taxi licences are not transferable or assignable. Accordingly, these licences have no trading market value that could be affected by the proposed licensing reforms. The effect of the licensing reforms on this group of licence owners is similar in nature to that on owner-drivers with one or two vehicles (see section 16.1.2).

Owners of perpetual transferable and assignable taxi licences

As noted in the Draft Report and in chapter 3 of this report, the value arising from barriers to entry in the taxi industry is appropriated largely by the owners of perpetual transferable and assignable conventional taxi and wheelchair accessible taxi (WAT) licences. This is the largest single category of taxi licences, representing approximately 77 per cent of all licences. There are 2,604 owners of 3,851 licences (all zones) in this category. Conventional taxi vehicles account for approximately 95 per cent of these licences; WATs account for approximately five per cent. The trading market for these licences is the most substantial of any licence category in terms of number traded. These licences attract the highest value, in part due to the ability of owners to assign them and receive a stream of income from assignment.

The entities owning these licences may be natural persons, companies, partnerships or incorporated associations. Owners may be taxi drivers and/or operators, but in Melbourne are much more likely to be passive holders of the licence as an investment. Features of ownership within this category are:

- Over 70 per cent of licences in this category overall are assigned, indicating a very substantial investor presence in this sector of the industry
- There is a significant difference in assignment rates in country Victoria compared to Melbourne: 81.2 per cent of licences for conventional and WAT taxis in the metropolitan Melbourne zone are assigned; around 17 per cent are assigned in the Country zone
- There are a number of owners who own more than one licence. On average, multiple ownership is higher for Country zone conventional taxi licences at 1.72 licences per owner, compared to Metropolitan zone owners with 1.43 licences each.

It is expected that there will be a reduction in the value of existing taxi licences if the inquiry's recommendations are implemented. The sale of the proposed new licences at $20,000 per annum will effectively cap the annual income from the assignment of existing licences at or around $20,000 per annum. It will also prevent the growth in assignment fees over time. Both of these outcomes will affect licence values.

The major effects of the reform package on this category of licence are:

- The likely reduction in the annual income received by owners who lease metropolitan Melbourne licences to at or around $20,000 per annum
- Owner-operators will pay more to drivers under the proposed fare revenue split between drivers and operators under the mandatory Driver Agreement, without having offsetting assignment cost savings available to them (although the reforms will provide additional revenue opportunities)
- The likely reduction in the market value of perpetual metropolitan Melbourne licences, estimated to be between $250,000 and $300,000.

The ultimate effect of the proposed policy on existing conventional licence values will depend upon how licence owners value the expected annual income of around $20,000. How much the value will change will depend upon both normal market factors, such as expected inflation and interest rates, and perceptions of risk from holding the licence. If the inquiry's reforms are implemented with a strong commitment to the new licensing approach, then taxi licences are likely to be regarded as a relatively lower risk, lower return investment.

Owners of fixed term (10-year) taxi licences

This category includes owners of licences to operate conventional taxi-cabs and WATs. These licences are transferable, but not assignable. There are 162 owners of 221 fixed term conventional taxis licences and 239 owners of 285 fixed term WAT licences. Fixed term conventional licences tend to be slightly more concentrated in the metropolitan Melbourne zone: 94 per cent of fixed term conventional taxi licences are in that zone compared to 81 per cent of fixed term WAT licences (82 per cent of all taxi licences are metropolitan zoned).

As discussed in chapter 3, these licence owners are likely to be made relatively worse off under the inquiry's reforms, as they are effectively paying more than $20,000 per year for the remaining years of the licence. The inquiry has recommended some specific changes to address the particular circumstances of this group of licence holders.

16.1.5 Owners of hire car licences

The reforms aim to provide increased opportunities for existing hire car licence holders. These opportunities will arise largely as a result of the relaxation of regulation imposed to protect the taxi industry from competition from hire cars. Unlike taxis, hire cars must be operated by the licence holder, meaning that improvements to the operating arrangements for these vehicles will be enjoyed by the licence holder.

For existing metropolitan hire car licence holders, the reduction in licence price from $60,500 (GST inclusive) to $40,000 represents a loss in capital value of their licences. While this reduction in value is acknowledged, it also means that existing licence holders seeking to grow their fleets will incur lower costs. The proposed reforms also recommend that the luxury car restrictions be removed, resulting in a greater choice of vehicles – likely at some reduction in cost.

The inquiry has heard from a small number of hire car operators that the reforms will lead to reduced confidence in hire cars from the public as standards will be lower with the removal of regulations stipulating a luxury service. The inquiry disagrees with these views as hire cars by their definition offer a pre-booked service to customers. Their relationship with customers is quite different to that of taxis where customers generally have no knowledge of the driver or vehicle in the rank and hail environment. The inquiry considers that existing hire car operators who wish to provide a luxury service will continue to do so as long as their customers demand this type of service. If service standards of hire cars were to deteriorate, this is likely to lead customers towards seeking out better operators rather than moving away from hire cars altogether. In taxis, where service standards are considered to be lower (and prices cheaper), premium services have emerged in recent years. Arguably, these services have emerged as a result of perceptions of poor quality service from the taxi industry as a whole.

16.2 Analysis of effects on taxi licence values

It is evident that some industry participants are likely to suffer adverse financial impacts as the reforms take effect. The major impact will be experienced by the owners of perpetual transferable and assignable taxi licences through:

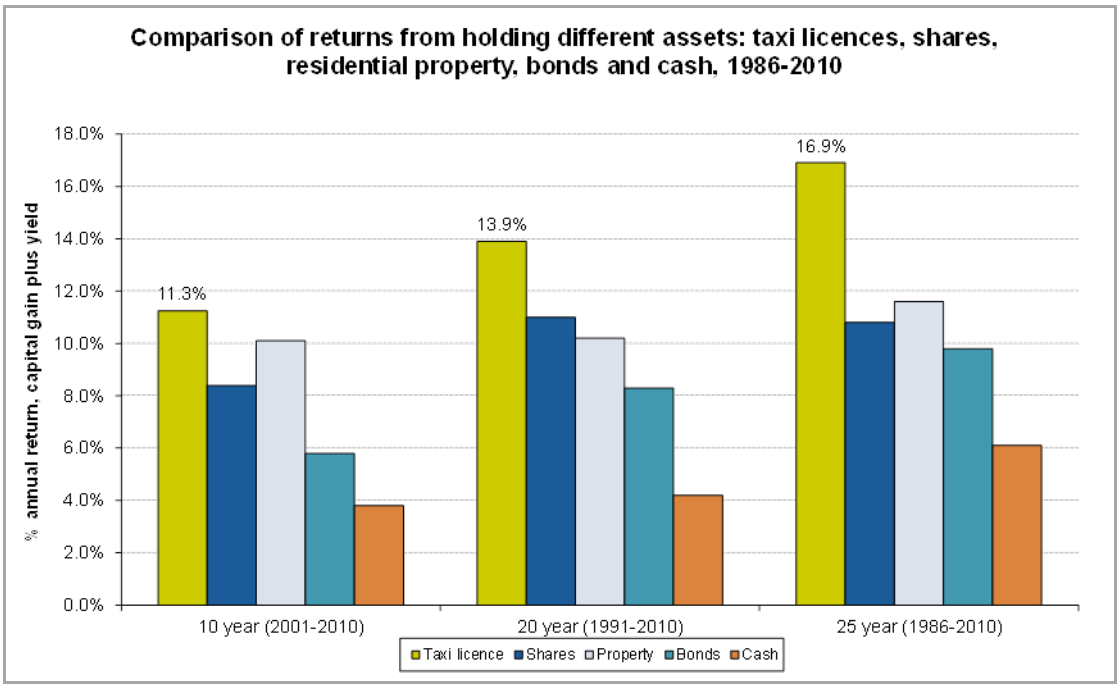
- The predicted reduction in the annual income received by owners who lease licences or the operating income of those who own licences and operate taxis
- The likely reductions in the market value of transferable taxi licences.

These two effects are inter-related as the prices of licences at sale reflect the anticipated stream of income received from assignment or operation. Examining returns obtained by various licence owners provides an objective basis for determining which owners are likely to experience the greatest effects.

16.2.1 Returns to licence owners

Chapter 5 of the Draft Report contained an analysis of the financial returns to owners of taxi licences in metropolitan Melbourne, which examined both licence and assignment values (or profits earned from operation). The main conclusions of this analysis of historical financial returns (capital gain and income yield) was that long term licence owners have received exceptional returns that are superior to those received by owners of other asset classes such as shares and property. This is illustrated in Figure 6, which provides a comparison of the returns from taxi licences, shares, residential property and cash (term deposits and cash management accounts).

Figure 6 Historical returns from Melbourne taxi licences compared to other asset classes



Source: Russell Investments, VTD data on taxi licences

Figure 6 shows that returns from taxi licences were significantly higher than the other asset classes in each of the three time periods: 10, 20 and 25 years. Those who bought their licences 25 years ago have earned a rate of return almost 50 per cent greater than those who invested in property or shares at the same time.

Estimating the effects of reform on returns

The inquiry's licensing reforms will reduce the returns earned on taxi licences. However, there are many licence owners for whom overall returns earned will still be reasonable. One objective method of describing the effect of the inquiry's licensing reforms on returns is to compare the 'internal rate of return' (IRR) from taxi licences before the reforms with a calculation of what the IRR would be assuming a reduced 'post-reform' licence value. Technically, the IRR of an investment is the discount rate (expressed as a percentage) that would set the net present value of the investment equal to zero. The IRR calculation takes account of purchase price and cash returns plus the final asset value (in this case, the post-reform licence value). The IRR can be compared to the 'cost of capital' (such as the interest rate on a loan to fund the investment) to assess the overall reasonableness of profits earned. For example, a 10 per cent IRR is a very good return on an investment financed by a loan at an interest rate of seven per cent.[1]

Table 7 measures the effect on licence values by calculating the IRR received on a licence 'with' and 'without' licence reform. The table uses data relating to perpetual, transferable and assignable metropolitan Melbourne licences for conventional vehicle taxis (the most developed market for trading licences). Market values are not sufficiently robust for Country zone and WAT licence transfers and there is also the issue of the extent of goodwill value in sales of country taxi businesses involving the transfer of licences.

1 The suitability of using the IRR to assess profitability is well established in economic theory and practical investigations. See *Assessing profitability in competition policy analysis,* Economic Discussion Paper 6, July 2003 (a report prepared for the Office of Fair Trading by OXERA) for a discussion on the benefits of using this technique.

Table 7 Estimated returns (IRR) from taxi licences with and without licensing reform

A **Licence owner cohort: year licence acquired**	B **Average price paid in year**	C **No. of licences last acquired in this year**	D **% of total licences purchased since this year**	E **RETURNS 'WITHOUT REFORM'** IRR assuming licence value of $495k (average 2011)	F **RETURNS 'WITH REFORM'** IRR assuming licence value reduces to $263k	G ***CHANGE IN RETURNS (percentage points)*** ***(column F-E)***
Pre1975	-	219	100%			
1975	$16,200	15	93%	16.5%	16.2%	*-0.3*
1976	$13,800	9	92%	18.4%	18.1%	*-0.3*
1977	$11,400	15	92%	20.9%	20.7%	*-0.2*
1978	$11,200	15	92%	22.4%	22.2%	*-0.2*
1979	$12,750	14	91%	22.7%	22.5%	*-0.2*
1980	$14,850	28	91%	22.7%	22.5%	*-0.2*
1981	$25,480	29	90%	18.7%	18.4%	*-0.4*
1982	$25,800	36	89%	19.8%	19.4%	*-0.4*
1983	$27,800	39	87%	20.3%	20.0%	*-0.4*
1984	$35,750	38	86%	19.1%	18.6%	*-0.5*
1985	$53,400	27	85%	16.3%	15.7%	*-0.6*
1986	$56,047	38	84%	16.8%	16.1%	*-0.7*
1987	$79,390	60	83%	14.5%	13.7%	*-0.8*
1988	$97,250	67	81%	13.4%	12.5%	*-1.0*
1989	$113,315	58	79%	12.8%	11.7%	*-1.1*
1990	$106,456	63	77%	13.9%	12.7%	*-1.1*
1991	$116,463	74	75%	13.8%	12.5%	*-1.2*
1992	$122,508	88	72%	14.0%	12.6%	*-1.3*
1993	$132,292	125	69%	14.0%	12.5%	*-1.5*
1994	$133,950	132	65%	14.7%	13.1%	*-1.6*
1995	$168,163	132	61%	13.1%	11.3%	*-1.8*
1996	$199,605	106	56%	12.0%	9.9%	*-2.1*
1997	$238,179	85	53%	10.8%	8.4%	*-2.4*
1998	$259,417	92	50%	10.4%	7.7%	*-2.6*
1999	$279,271	98	47%	10.0%	7.1%	*-2.9*
2000	$256,243	84	44%	11.5%	8.3%	*-3.2*
2001	$281,507	80	41%	11.0%	7.3%	*-3.7*
2002	$308,681	88	39%	10.4%	6.2%	*-4.2*
2003	$325,748	129	36%	10.2%	5.5%	*-4.8*
2004	$339,382	122	31%	10.2%	4.8%	*-5.5*
2005	$343,042	136	27%	10.7%	4.3%	*-6.4*
2006	$380,039	104	23%	9.4%	1.9%	*-7.5*
2007	$460,256	126	19%	6.1%	-2.8%	*-8.9*
2008	$466,467	73	15%	6.0%	-5.0%	*-11.0*
2009	$432,359	148	13%	8.4%	-5.9%	*-14.3*
2010	$501,876	121	8%	3.6%	-14.9%	*-18.5*
2011	$495,760	86	4.1%	3.0%	-24.1%	*-27.1*

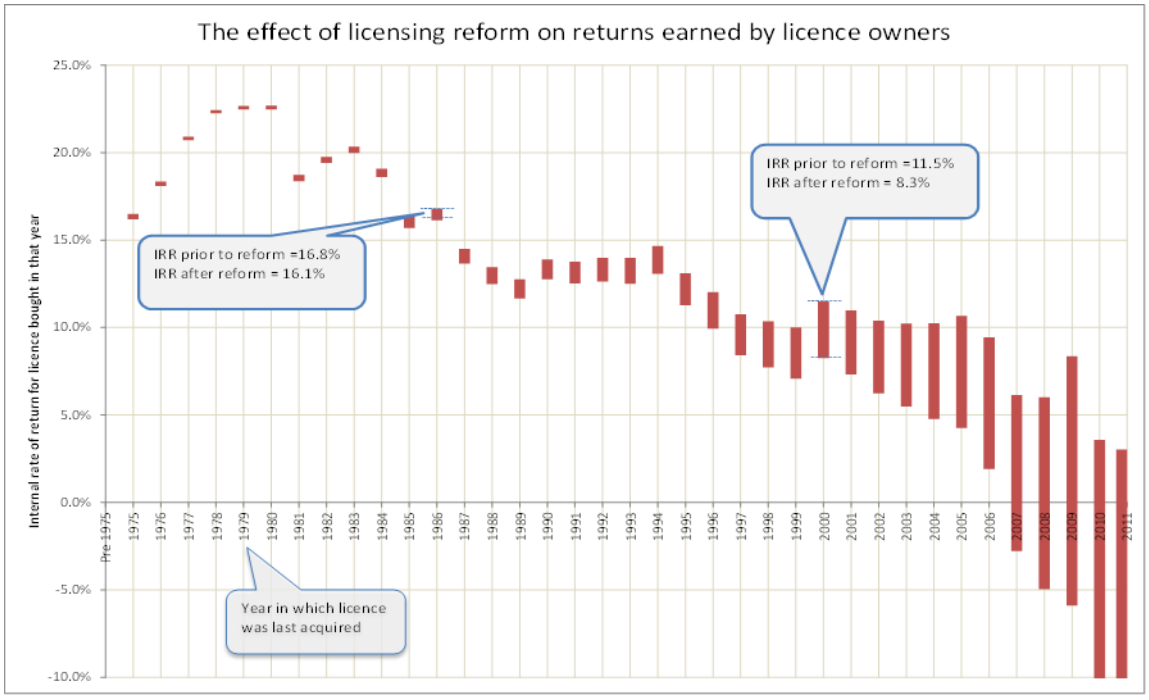
Note: Returns from assigning or operating a licence prior to 1999 are estimated. A value of six per cent of the licence value is used consistent with the lower end of returns earned over the post-1999 period.

The main features illustrated in Table 7 are:

- Those holding licences for long periods (acquired before 1980) have earned the best returns, both with and without the effects of reform (columns E and F).
- While still affected by the reduction in value from the change in licensing policy, long-term licence owners' overall returns with licensing reform will not be nearly as much affected as the returns of someone who purchased a licence in recent years. Even with the proposed reform, the IRR from longer term holding of a licence is quite high (column F):
  - 10 years (2001) return is 7.3 per cent
  - 15 years (1996) return is 9.9 per cent
  - 20 years (1991) return is 12.5 per cent
  - 25 years (1986) return is 16.1 per cent.
- The major impact on returns is apparent from 2002 where the difference between returns with and without reform measured by the IRR begins to widen beyond three percentage points (column G).
- Licences purchased from 2007 show sharply reduced returns with reform, going into a negative return from this year (column F).

Another way of presenting the effect on licences is to plot the with-and-without-reform returns by year of purchase, but showing only the difference in returns (column G). This is illustrated in Figure 7 where the red bars in the graph show the difference in returns. For example, the effect of the reform on licences purchased in 2000 is a reduction of 3.2 percentage points (11.5 per cent to 8.3 per cent), appearing as the red bar. This figure shows, as did Table 7 on which it is based, that the larger impacts of licensing reform on returns are concentrated in licences purchased since the early 2000s (and more particularly from 2007).

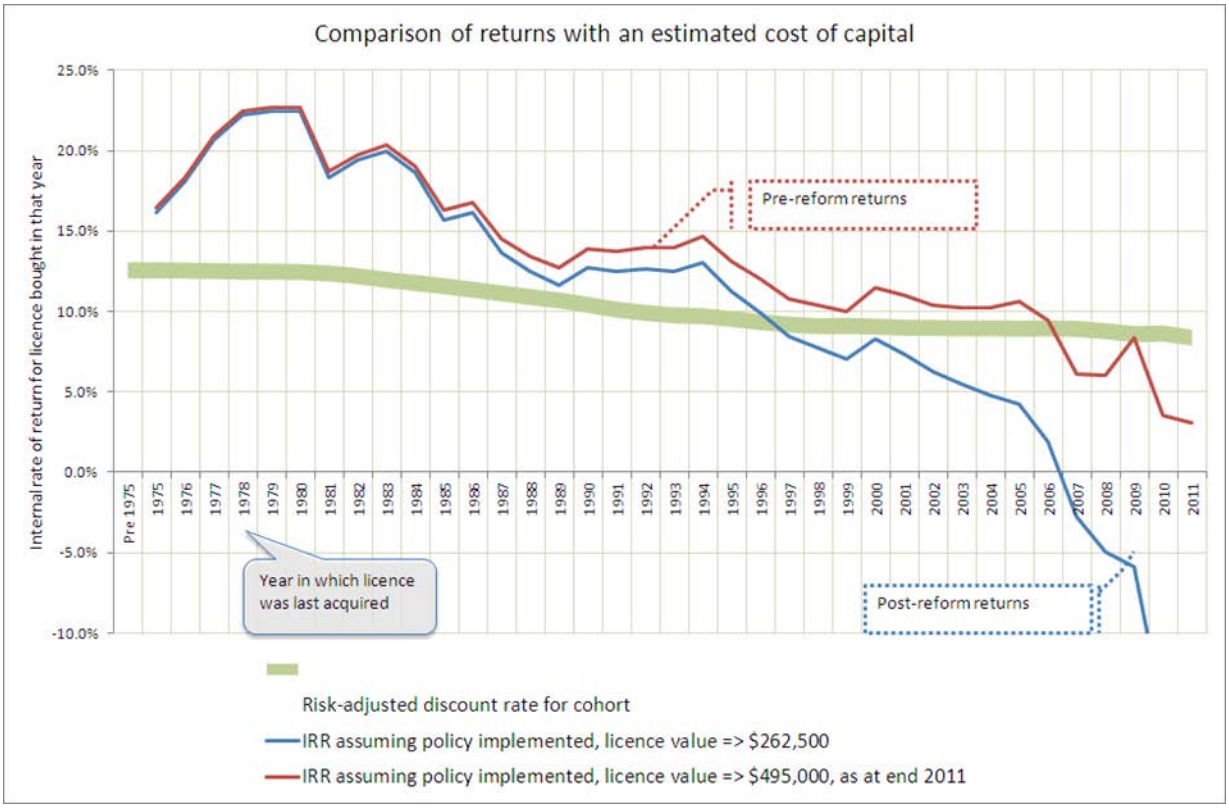
Figure 7 The effect of licensing reform on returns earned by licence owners



The assessment of returns from taxi licences also needs to take into account the likely cost and risk borne by the purchaser of the licence. This information is captured in the 'cost of capital' for the licence owner, which reflects the compensation required by an investor for the effects of inflation, the time value of money and the risk associated with the investment. The estimated with-and-without-reform returns described in Figure 7 can also be plotted against the inquiry's estimate of the average opportunity cost of capital (the long-term bond rate plus an estimated risk premium for the asset class) faced by a licence owner over the period of licence ownership: that is, the average cost of capital for a licence held for 10 years reflects the average of the estimated cost of capital over the same 10 years. This is set out in Figure 8, which compares the returns from taxi licence investment and an estimated cost of capital that would have applied for that cohort of licence owners. Figure 8 highlights yet again that the adverse effects of reforms in terms of investment returns are related to the length of time licences have

been held. For licences purchased since the early 2000s, the estimated returns with reform are below the cost of capital for the corresponding periods.

Figure 8 The effect of licensing reform on returns earned by licence owners



It is apparent from the analyses in Table 7 and Figures 7 and 8 that returns to licence owners acquiring a licence in or after 2007 will be most affected by a fall in taxi licence values. There is a clear differential impact of the licensing proposal upon more recent acquirers of licences (who paid high market prices to enter the industry) versus long term incumbents in the industry.

Licence ownership data held by the regulator enables the following analysis of the number of licences and owners involved in the effects set out in Table 7 and Figures 7 and 8. Of approximately 4,330 taxi licences on issue in **metropolitan Melbourne**:

- 1,300 licences are unaffected by the reform's effect on licence values because of the licence type (that is they are not tradeable and assignable).
- Of the 2,075 owners of 2,972 conventional taxis licences (for which there are robust market values):
  - 1,066 (51.4 per cent of 2,075) owners acquired all their licences pre-2000, which have an IRR of seven to 22 per cent, even with the reforms;
  - 332 (16.0 per cent) owners acquired all their licences in 2000-2004, which have an IRR of between just under five per cent to just over eight per cent, and
  - 137 (6.6 per cent) owners acquired all their licences in 2005-2006, which have an IRR of up to just over four per cent.
- Purchasers of licences post-2006 would experience a negative return. There are 450 owners (21.6 per cent) who acquired 591 licences post-2006; 304 of these own only the one licence acquired after 2006.
- Approximately 90 owners (4.3 per cent) own multiple licences purchased across multiple periods pre- and post-2000 and would have a mix of returns under the proposed reforms.

16.3 Do the likely effects on licence values warrant additional policy measures?

Having identified the effects on taxi licence values, the next step is to consider whether these likely effects warrant some additional policy measure (or measures) in conjunction with the implementation of the inquiry's package of recommendations.

16.3.1 Effects lessened by proposed new licence price

Before undertaking this step, it is important to note that the inquiry's recommendations on taxi licensing do not propose that unlimited licences be available for nominal administrative charges, despite such an approach being justifiable on economic grounds. As noted in the Draft Report, the inquiry recognised that under a scheme where any qualified person could receive a licence *at administrative cost only*, licence values would fall from the current price of high $400,000s in Melbourne to virtually zero overnight. Instead, the inquiry has adopted a more moderate path of reform to alleviate the impacts on licence values. The inquiry stated in the Draft Report:

> *An immediate move to a full open market would undermine existing market values of licences and drive these to zero. With current values for perpetual licences around $500,000 in Melbourne and over $300,000 in many areas outside of Melbourne, this would impose severe losses on licence holders, some of whom will not have obtained excessive returns on their licences in the past, having acquired them well after restrictive licensing was first introduced. The inquiry is unwilling to recommend a full open market without some measures to offset the losses licence holders would suffer, even if these are paper rather than actual losses for many licence holders.*

The licence owners who made submissions in response to the Draft Report did not view the proposed pricing of new taxi licences as a moderate or compromise measure intended to lessen the effect of the reforms on their licences. However, the fact remains that the option of pricing at administrative cost was rejected by the inquiry as unacceptable because of its impact on licence owners. Instead, the inquiry has maintained the approach in its Draft Report of setting a significant price on new licences ($20,000 per year in Melbourne). This ensures that licence holders will continue to receive an income stream and some capital value on their licences. This is an implicit form of assistance built into the reform package.

16.3.2 Adjustment policies in microeconomic reforms

The Australian and Victorian economies have undergone significant policy-induced reforms affecting a wide range of industries over the past three decades. As noted in a 2001 Productivity Commission research paper, *Structural Adjustment — Key Policy Issues*:

> *Since the early 1980s, such* [microeconomic] *reforms have extended beyond trade liberalisation and improvements in statutory marketing arrangements to encompass improvements in financial markets, the regulatory framework for government business enterprises, Australia's tax system, the funding and delivery of education, health and community services, regulatory arrangements for businesses, natural resources and the environment, labour market and industrial relations regulations, and the development and … implementation of National Competition Policy (NCP) reforms…*
>
> *The debate about the future direction of economic policy and reform in Australia highlights ... the development of implementation strategies to give effect to policy changes, namely:*
>
> – *the circumstances in which there is a role for additional measures, beyond the social security and tax systems and other generally available adjustment measures, to support the implementation of policy changes, and*
>
> – *the relative merits of each of the additional measures as aids to the implementation of policy changes.*[2]

Proposed changes to the regulation of the taxi industry – by this inquiry and several preceding reviews (particularly the National Competition Policy review of legislative restrictions on competition)[3] — fall into the

2 Productivity Commission (2001), *Structural Adjustment — Key Policy Issues*, Commission Research Paper, AusInfo, Canberra, p. xi-xii

category of reform the Productivity Commission referred to over a decade ago. The question facing the Victorian Government in implementing the inquiry's reforms is: are there significant public policy issues involved in the likely pre-reform to post-reform adjustments in the taxi industry and, if so, what are the potential policy responses to address those issues?

This is a complex question to which there is no clear-cut answer.[4] An examination of the history of past government decisions on adjustments forced by policy decisions in other industry contexts reveals there is no definitive precedent. Governments have adopted various measures over time, including:

- Compensation – in its simplest form, payments to those adversely affected by a policy change to restore or partially restore their pre-reform position
- Adjustment assistance – a variety of measures intended to help individuals and businesses to adjust to changing circumstances, such as substantial advance notice, phased implementation of reform and re-training and re-skilling schemes.

Governments have acted on a case-by-case basis, reflecting the particular circumstances of the industry concerned. This has resulted in inconsistency on adjustment issues across Australian governments. For example, when the egg industry was deregulated in New South Wales, compensation for the loss of value of egg quota holdings was paid to egg producers. The Commonwealth Government compensated dairy farmers as part of a deregulation package that, among other things, devalued market milk quotas. On the other hand, removal of licences held by importers for a range of quota protected manufacturing goods has generally not been accompanied by compensation. Indeed, many other activities subject to reforms that have devalued or removed rights have not been compensated: for example, the loss of income for members of the legal profession when some governments removed their exclusive right to engage in property conveyancing.

Regarding adjustment issues in taxi industry reforms, there has also been inconsistency in past reforms undertaken by Australian and overseas governments. Different jurisdictions have taken different approaches as illustrated below.

- Reforms to the regulation of the hire car industry in New South Wales, which came into effect on 13 September 2001, included a reduction in the annual licence fees in Sydney from $16,100 per annum to $8,325 per annum. The NSW Government established a Hire Car Hardship Assessment Panel in December 2001 which considered a number of options for providing compensation to claimants demonstrating a loss due to the reforms, including *ex gratia* payments, issuing an additional hire car licence to each hire car licence owner or offering a taxi plate to each hire car licence owner. The Panel recommended that perpetual hire car licence owners whose 'financial integrity [has] been adversely affected' be allocated unrestricted taxi licences in exchange for their hire car licences, subject to certain conditions regarding financial contributions from the owners.
- The Northern Territory deregulated entry to the taxi, minibus and hire car industry from 1 January 1999. All current taxi licences were cancelled (in 1997-98, licences in Darwin were trading at around $230,000), with provision for compensation in the form of a lump sum payout of taxi licences funded by annual fees on the new licences. The amount of compensation through the licence payout was based on the market value of a Darwin taxi licence.
- In Ireland, a decision of the High Court in October 2000 effectively deregulated entry to the taxi industry by ruling that limitations on the number of taxi licences in the interests of incumbent licence holders were illegal.[5] Existing taxi licences values fell to close to zero from levels of around £IR70,000 to £IR110,000 ($A200,000 to $310,000) depending upon the area of operation. After deregulation, the local authority one-off fee for a licence was £IR 5,000 ($A14,000).[6] The Irish Government put into place three measures to mitigate the effects on licence owners: a scheme of refunds of taxi licence fees by local authorities; changes to the taxation treatment of the capital cost of purchasing licences acquired before 1 November 2000; and a

3 See chapter 6 of the Draft Report for a discussion about previous reform efforts.

4 A comprehensive discussion of adjustment policy issues is contained in three Productivity Commission publications published between 1999 and 2001: *Structural Adjustment — Exploring the Policy Issues*, Workshop Proceedings (1999); *Regulation of the Taxi industry*, Commission Research Paper (1999); *Structural Adjustment — Key Policy Issues*, Commission Research Paper (2001). Much of the discussion in this chapter draws on these publications.

5 High Court Judicial Review Record Number 38JR/2000

6 Barrett, S. (2007), 'Regulatory Capture, Property Rights and Taxi Deregulation- A Case Study' in European Conference of Ministers of Transport, Transport Research Centre, *(De)regulation of the Taxi Industry*, Report of the 133rd Roundtable on Transport Economics, p. 137

scheme of compassionate payments to licence owners for demonstrated severe financial hardship incurred as a result of the deregulation. Payments ranged from €3,000 to €15,000 ($A5,000 to $25,000), depending upon the circumstances of individual claimants.

The potential grounds on which additional policy measures may be taken to compensate or assist adversely affected industry participants fall into four categories:

- Legal
- Economic
- Equity
- Reform facilitation.

16.3.3 Legal measures

Many submissions received from taxi licence owners essentially argued that the proposed policy change in relation to licensing breaches the 'property rights' in their licences and, therefore, they are entitled to compensation for the diminished market value of tradeable licences and the stream of income from leasing their licences. A number of submissions compared the effect of the taxi licensing proposals with the government compulsorily acquiring houses at a price below the market value.

This argument for compensation assumes that there are clear property rights in taxi licences and rights at law to compensation where there is diminution of licence value. However, the inquiry considers the nature of the 'property right' in taxi licences is problematic and that the assertion by licence owners of an existing legal right to compensation for reductions in licence market values is erroneous.

Property rights in taxi licences?

In some circumstances, the existence of a property right and therefore a right to some form of compensation is clear-cut. For example, under the Australian Constitution, landowners have a constitutional right to 'just compensation' should their land be compulsorily acquired by the Commonwealth Government under Commonwealth legislation. Also, where governments have entered into contracts for the supply of goods and services, financial compensation is sometimes expressly provided for in the event of specifically-defined events occurring. In Victoria, for example, the State Government contracted to compensate the private developers of the CityLink toll road should the Government make transport investments that reduce the demand for the toll road.[7]

These two examples provide illustrations of 'explicit' property rights where certain events entitle their owners to compensation for the loss of a property right or a diminution of its value. In other circumstances, government policies that influence the value of assets, such as water entitlements and statutory marketing arrangements, are viewed by some as giving rise to 'implicit' property rights. Compensation is not necessarily provided if policy changes result in the value of such assets declining.

Taxi licences may be considered by some to have the characteristics of 'property': for example, they are either of permanent or reasonably long-term fixed duration, are capable of being transferred and/or assigned for value and cannot typically be revoked or cancelled other than for cause. However, the inquiry considers that whatever property rights may exist in taxi licences, they are nevertheless subject to the right and practice of governments to make changes to the conditions of their existence. This view is expressed persuasively in the decision of Costello J in a 1992 Irish High Court case, *Hempenstall v the Minister for the Environment*, where taxi licence holders opposed extra hackney (private hire vehicles not permitted to take rank and hail customers) licences because these would reduce the value of taxi licences:

> *…property rights arising in licences created by law (enacted or delegated) are subject to the conditions created by law and an implied condition that the law may change those conditions. Changes brought about by law may enhance the value of those property rights (as the Regulations of 1978 enhanced the value of taxi plates by limiting the numbers to be issued and permitting their transfer), or they may diminish them … But an amendment of the law which by changing the conditions under which a licence is held, reduces the commercial value of the licence cannot be regarded as an attack on the property*

7 Forsyth, P., 'Structural Change: objectives, evaluation and incentives, in Productivity Commission, *Structural Adjustment — Exploring the Policy Issues*, Workshop Proceedings, Canberra, 21 May, 1999, AusInfo, p. 241

right in the licence – it is the consequence of the implied condition which is an inherent part of the property right in the licence.[8]

The inquiry considers the conditionality inherent in government licensing policies and laws is highlighted in the history of taxi regulation in Victoria. As the Draft Report noted, over the last 25 years, successive Victorian Governments have made attempts at industry reform in response to various reviews and inquiries and to meet Victoria's obligations under National Competition Policy agreements.[9] More detail of the reviews foreshadowing changes in the regulation of the Victorian taxi industry and highlighting the conditionality of licences is set out in the discussion of information asymmetry as a possible ground for additional adjustment policy measures in section 16.3.4 below.

In addition to the conditional nature of any property rights in taxi licences, the inquiry makes a further observation regarding the nature of the asserted right and the interference with that right that is claimed to justify compensation. Under the inquiry's proposals, an owner of a perpetual and transferable taxi licence will still be:

- Permitted to operate a taxi
- Free to sell the licence
- Free to lease the licence to someone wanting to operate a taxi
- Entitled to receive income from the lessee of the licence.

The inquiry considers that it is not obvious that its licensing proposals will produce any change in the nature of the property right in the ownership of taxi licences. The current entitlements attaching to perpetual and transferable taxi licences would remain unchanged. What can be done with these licences will not change or be terminated; nor will licences be acquired by the Victorian Government. Rather, what is likely to change under the inquiry's recommendations is the amount of monetary consideration owners may receive for the sale or lease of licences.

Right to compensation?

It is not clear on what ground a diminution in licence values necessarily creates a right to compensation. The inquiry considers that such a ground is highly unlikely to exist; indeed, there is good reason to conclude that no such right exists. The legislation regulating the taxi industry, the *Transport (Compliance and Miscellaneous) Act 1983,* has contained an express provision since 1983 that compensation is not payable to an existing licence owner as a consequence of decisions to issue any other licence under the Act or vary any conditions or terms attaching to licences. Approximately 85 per cent of perpetual transferable and assignable metropolitan Melbourne licences were purchased after 1983. Section 90 of the Act states:

> *No compensation shall be payable to any person in respect of or as a consequence of any decision or determination made pursuant to this Part –*
>
> *(a) to grant, issue, renew, reject, cancel, suspend or revoke any licence, certificate, permit, consent, assignment or other authority under this Part;*
>
> *(b) to add, alter or vary any condition or term of or attached to any licence, certificate, permit, consent, assignment or other authority under this Part …*

Governments generally do not provide guarantees that regulation will remain unchanged or that asset values will be protected from policy changes or that asset values will never fall below a certain amount. Governments in Australia have reformed the regulation of a wide variety of markets over the past three decades and, in the process, affected the values of a variety of private assets (not just those created by regulatory schemes) without making compensation payments to adversely affected parties or seeking to recover windfall gains from those that benefit. Examples include many statutory marketing arrangements for agricultural products, aviation, energy, transport, postal services and telecommunications.

In relation to an analogy with government compulsory acquisition of land made in some submissions, the inquiry is not proposing that licences will be compulsorily acquired; nor is what owners can do with their licences being changed: they will still be able to lease, operate or sell their licences. Accordingly, calls for compensation in submissions must rest on a diminution in the value of licences. The inquiry notes that in the United States jurisdiction, with its concept of regulatory 'takings' (where regulation does not seize private property, but has the

8 Barrett, S. (2007), Op. Cit., p. 139

9 See chapter 6 of the Draft Report.

effect of reducing the value of private property), the diminution of value required before courts will rule that government compensation is appropriate is very stringent. In *Palazzalo v. Rhode Island* (2001) the US Supreme Court ruled that a developer who experienced a 94 per cent diminution in the value of his land following a legislative restriction on development on environmental grounds did not qualify for compensation.[10]

This issue in the context of taxi licences arose, though not centrally, in a recent New York State Supreme Court case involving the taxi industry in New York.[11] The State legislature legislated to allow the Mayor of New York to issue 2,000 additional wheelchair accessible taxi 'medallions' and the Taxi and Limousine Commission to issue 18,000 additional street hail taxi licences with certain geographic operational limitations. Taxi industry associations argued, amongst several other points, that issuing the additional taxi medallions and licences would so diminish the value of current medallions as to constitute a regulatory taking. The Court rejected the argument that the issuing of additional licences constituted a taking in principle, as no rights were being removed: it was 'just a sharing of a right with a larger pool of drivers'. As to the degree of a reduction in value required to constitute a taking, the Court held, based on what it described as a 'legion' of cases, that a taking must be more than a mere diminution in value and that a drop of 54 per cent (the high end of the plaintiffs' claims) would not qualify.

Even if legislation to enable the issue of the proposed new licences was regarded as somehow acquiring or confiscating the existing perpetual and tradeable licences (a conclusion the inquiry does not share), the inquiry notes that the Victorian Constitution does not provide a right to compensation for compulsory acquisition of property by the State.

In summary, the inquiry is not aware of any rights to compensation that would apply if the recommendations regarding taxi licensing are implemented. Given the legislation creating the licences also expressly rules out compensation relating to the consequences of issuing new licences, the inquiry can find no basis to conclude that there is a legal obligation on the Victorian Government to compensate existing licence owners following implementation of its recommendations. There may be other grounds for offering some adjustment assistance to affected parties.

16.3.4 Economic measures

An economic rationale for adjustment assistance may exist where there is a market failure produced by a regulatory reform and assistance or compensation addresses the market failure. However, this seems unlikely given that a common rationale for regulation is to address market failures: it would be a poorly designed regulatory reform that itself created a further market failure.

While there are instances of market failure in the taxi industry (for example the information problem consumers face regarding knowing in advance the quality of service provided by a hailed taxi), the inquiry cannot identify any that relate to reductions in the value of licences attributable to regulatory reform.

One argument that may be put forward is that licence holders were unaware that the regulatory changes would affect the value of their licences in the future. This could be regarded as a form of 'information asymmetry' in that the Government (so the hypothesis would go) had information about the market (policy change) that licence holders did not. This proposition requires accepting that, over time, licence owners could not reasonably have been aware that either policy changes to taxi licensing were contemplated from time-to-time by the Government or that the Government had implemented changes to licensing resulting in additional licences already being issued.

The inquiry considers that such an argument is not sustainable given the long history of publicly available information about possible and actual policy changes relating to taxi licensing:

- In 1983, as already noted, legislation was passed that expressly provided for no compensation as a consequence of the issue of any licence – presumably to allow governments to issue licences without concerns about compensation.
- As set out in chapter 6 of the Draft Report:

10 U.S. Supreme Court, Palazzalo v. Rhode Island (2001) cited in Miceli, TJ and Segerson, K (2011), *Regulatory takings*, Department of Economics Working Paper series, University of Connecticut. See this paper for an economic analysis of the concept of regulatory takings.

11 Supreme Court of the State of New York, *Taxicab Service Association v. the State of New York*, Engoron, J, 17 July 2012

- In 1986, the Foletta inquiry recommended removing the controls on entry to the taxi industry. Following the inquiry, 150 new metropolitan taxi licences and 10 outer suburban licences were issued.
- In 1995, Australian governments adopted the National Competition Policy (NCP), including identification of the areas that were to be reviewed with a view to removing restrictions on competition unless the benefits to the community of retaining them exceeded the costs. These areas included taxi regulation.
- In 1999 as part of each State and Territory government agreeing through the NCP to review its taxi regulation, the Victorian Government commissioned a review that recommended the removal of entry restrictions (the KPMG review).
- In 1999, the Productivity Commission recommended the deregulation of taxi licence number restrictions.
- In 2000, the National Competition Council staff discussion paper, *Reforming the Taxi Industry in Australia*, recommended partial deregulation by removing restrictions on licence numbers.
- In 2001, a report by the Chairman of the Victorian Government Steering Committee that had overseen the KPMG review recommended phasing out investor ownership of taxi licences over two years (the McQuillen Report).

- Following this series of reviews and reports proposing reform of the taxi industry for over more than 15 years, a licence release program began in 2002. The Victorian Government clearly stated that the objectives of the program were to:
    i. *Break the link between the provision of taxi services and the value of the taxi licence as an asset;*
    ii. *Improve the current demand/supply balance;*
    iii. *Lead to a gradual decline in the value of taxi licences over time;*
    iv. *Prevent future "windfall gains" being obtained by licence holders.*[12]
- In 2010, as part of the latest licence release, the Government made a clear statement that it would "…continue to reserve the right to issue further Taxi-cab or other commercial passenger vehicle licences at its discretion as permitted by the Transport Act".[13]

The inquiry considers that there is no information asymmetry relating to government policy in the taxi licence market. The recommendations of reviews commissioned by Victorian and Australian governments and public statements by governments have all been in one direction: less restrictive policy approaches to issuing taxi licences. Given this history, it is a reasonable expectation that persons electing to purchase or hold on to (and not sell) a taxi licence beyond 2002 (after the NCP review and the licence release program) were aware of the probable direction of policy change and the Victorian Government's intentions – or could readily have informed themselves of these developments.

Another possible economic argument for adjustment assistance is that efficiency requires the maintenance of a framework for exchange and transactions though trust that the 'players' will not change the rules. Economic behaviour presumes the longevity of pre-existing rules and individuals must hold this presumption with a reasonable degree of confidence. If there are unanticipated changes in rules, that trust is compromised, transaction costs rise and the efficiency of exchange declines. One manifestation of this argument is that changes in government policy can cause 'sovereign risk'.

However, this seems more of an argument about the processes for changing the rules and the frequency of change, not that a specific rule (or policy) can never change or, if it does, that there must be compensation for those adversely affected. In the case of taxi licences, if the restriction on licence numbers were eased in the way the inquiry proposes, it would be as the result of a very public process lasting approximately two years (assuming legislative change in early 2013) and following several reviews and policy announcements over the 26 years since the Foletta report proposed less restrictive licensing.

The inquiry does not consider there is an economic efficiency case for compensating industry participants adversely affected by the proposed reforms. Indeed, there is an efficiency-related argument for *not* providing

12 Department of Treasury and Finance (2003), *National Competition Policy: Report for the Assessment of Victoria's Implementation of National Competition Policy*, pp.91-94

13 Department of Transport, Greater Melbourne Taxi Licence Release: Application information booklet, 2010, p. 21

compensation as to do so may encourage rent-seeking activity by the industry to gain compensation. Such activity is wasteful of resources and unproductive from the broader community's perspective and may encourage similar behaviour in relation to other microeconomic reforms, thereby hindering those reforms and reducing their efficiency gains.

Risk in taxi licence investment

The capacity of licence owners to be aware of potential licensing policy change is not only relevant to the information asymmetry argument discussed above; it also raises the question of licence owners' perceptions of the risk in their investments at the time of purchase. A number of submissions from licence owners stressed the magnitude of the investment they had made in acquiring a licence or licences, particularly where licences were purchased in recent years at prices in excess of $450,000. Some of these investments were claimed to be very highly geared, up to 100 per cent, with family homes as security in some cases. Other submissions claimed that all of a licence owner's wealth was invested in a taxi licence or licences.

This raises a number of questions: what independent financial and legal advice did purchasers obtain prior to making their investments in one or more licences? What was the extent of awareness and understanding of the industry held by persons purchasing and holding licences over time? What did prospective purchasers make of the relatively high capital gain and income yield from licences, in the context of the fundamental investment principle that return is related to the degree of risk? Did they properly consider that high returns are associated, generally, with high risk investments?

It appears from submissions provided to the inquiry that some taxi licence owners may have made uninformed or ill-advised investments in several respects, such as underestimating the inherent riskiness of the investment or not investing in a diversified portfolio to spread risk or being very highly geared. This question about the prudency of apparent approaches to risk is particularly relevant to those licence owners who are 'investor'-owners (some of whom lease multiple licences), rather than owner-operators/drivers. It is reasonable to ask whether these investors should have been expected to better understand the risks associated with the asset and to have a stronger financial capacity to bear the potential 'downside' of what is, for this category of owner, a speculative investment.

It would also appear from some submissions that some licence owners may have had little understanding of the industry they invested in at historically very high prices and on highly-geared bases. If this perception is correct, it seems incongruous for licence owners who emphasise the size of their investment in the industry to also be uniformed about the nature of the regulatory scheme and prospects for policy-induced change in the industry. Again, this raises questions about the proportion of current licence owners who sought independent financial and legal advice about the licence asset before making their investment. For example, what proportion obtained advice that referred explicitly to section 90 of the *Transport (Compliance and Miscellaneous) Act* and the history of government consideration of licensing changes?

16.3.5 Equity and fairness

Consideration of additional measures often arises from concerns about the 'equitable' or 'fair' treatment of people affected by policy changes. Central to this argument is the notion that if the community as a whole benefits from reform, but some groups are made worse off, then some of the benefits should be transferred to those who experience some detriment. Equity and fairness are inherently subjective and value-laden concepts. Perceptions about what is equitable or fair also vary across different sections of a community, between communities and over time.

'Equity' is usually raised as a concern if a particular reform will have a regressive distributional effect, such as a policy initiative that delivers significant gains to 'better-off' individuals and imposes large adjustment costs on less well-off people. Regulatory reforms often do not have wealth or income redistribution objectives, being more concerned with addressing market failures and efficiency issues. The overall distributional impacts arising from the proposed reforms to taxi licensing are likely to be relatively small in magnitude, if any, given the small numbers of people involved relative to the total Victorian community.

The impacts of reform are also unlikely to be regressive, given that the substantial cost of buying a taxi licence means that many Victorians could not afford to own a taxi licence, let alone several licences. Some indication that licence owners are unlikely to be among the community's less well-off members is given by a comparison of the value of a recently acquired metropolitan Melbourne taxi relative to the average net wealth position of Victorian households. The average value of such licences in 2009-10 was around $470,000. Australian Bureau of Statistics

survey data for 2009-10[14] indicates that 50 per cent of Victorian households had a net worth (total assets *including* owner-occupied houses less total liabilities) of less than $435,000.[15] Thus, the outlay to purchase a single taxi licence a few years ago was equivalent to more than the average household net wealth of over half of all Victorian households.

The notion that if the community as a whole benefits from reform, but some groups are made worse off, then some of the benefits should be transferred to those who experience some detriment, becomes more problematic where the reform in question involves the removal or modification of policy-based 'privileges' to those groups. As set out in section 5.4 of the Draft Report, the values stemming from restricting entry to the taxi industry through licences (the policy-based privilege) are captured by licence owners. This is evident in the high returns (capital gain in the licence value and returns from assigning or operating licences) from owning licences, particularly licences acquired by current owners prior to 2000.

The overall magnitude of the value appropriated can be assessed roughly by multiplying the number of perpetual and tradeable metropolitan Melbourne taxi licences (3,084) by the average market value of licences transferred (approximately $490,000 at the end of 2011). This 'lifetime' amount – in the sense that it represents the net present value of the potential stream of income from licences – of $1.511 billion is captured by 2,174 licence owners. Licence owners include natural persons, corporations, partnerships and incorporated associations. Thus, is it not clear how many people are the *direct* financial beneficiaries of perpetual and tradeable licence ownership – possibly it is in the order of 3,000 people. This number represents approximately 0.07 per cent of the Victorian population aged 20 years and over (0.07 per cent of approximately 4.2 million persons).[16]

There is an argument that additional measures such as compensation should not be adopted when policy changes terminate privileges previously created by regulation: given that government created the privilege (of a restricted number of taxi licences) and the artificially created returns of capital gains and assignment income, the government should not pay compensation for their removal. For example, the National Competition Council has argued that:

> *… in some cases, the 'adverse effects' some people incur from reform are, in effect, simply a removal of the privileges they have previously enjoyed at the expense of other members of the community. This reduces the strength of any equity arguments for providing special adjustment assistance in those cases.*[17]

Another aspect of the notion that some of the benefits of reform should be shared with the group disadvantaged by reform is to consider whether those licences holders who gained the high returns from ownership were subject to any particular taxes or other imposts on those returns, either income or capital gains. This is the other side of the 'compensation-for-diminished-value' argument. Licence holders have been free to take the rising value in licences and assignment income without facing any impost specific to the ownership of licences, other than being subject only to general income and capital gains tax arrangements.

'Fairness' is a more flexible concept and more dependent upon the values of those assessing the fairness or otherwise of a particular policy decision. One approach to 'fairness' is to consider factors such as whether the policy change:

- Was largely unexpected in the context of previous public consideration of the issue by governments (in effect, there was no notice of the change)
- Arose from a public process that allowed the affected parties to put their views on the impacts of policy options.

These factors relate to the opportunities available to affected parties to anticipate the policy change and therefore adjust their circumstances to minimise any potential adverse consequences and to alert decision-makers to the potential detrimental impacts and have those taken into account in the balance of considerations to arrive at the policy decision.

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14 Australian Bureau of Statistics (ABS), Catalogue 6554.0, Household Wealth and Wealth Distribution, 2009-10, Table 30

15 ABS, Catalogue 6554.0, Household Wealth and Wealth Distribution, 2009-10, Table 27. Net worth is defined as the value of a household's assets less the value of its liabilities

16 Australian Bureau of Statistics, Catalogue 3235.0, 4 August 2011, Population by Age and Sex, Regions of Australia. The estimate as at 30 June 2010 was 4,163,273 persons aged 20 years and older.

17 National Competition Council (1999), National Competition Policy: Some Impacts on Society and the Economy, AGPS, Canberra, p. 56

As the inquiry notes in section 16.3.4, the long history of reviews of taxi regulations and the statements by successive Victorian Governments around the release of additional taxi licences since 2000 mean that industry participants could hardly be surprised that the recommendations of this inquiry would be broadly in the direction of a less restrictive approach to taxi licensing. In addition, implementation of the inquiry's recommendations would follow a public process that has involved substantial stakeholder engagement over more than 16 months, including two separate submission processes, a comprehensive Draft Report containing detailed reform proposals and public hearings.

In discussing fairness under the reforms, a broader perspective is provided by extending the discussion beyond what is fair for industry participants. Governments also have an obligation to the 'losers' of the current restrictive licensing: the taxi-using public. The Victorian public pays around $120 million per year to maintain the value of taxi licence plates. Over time, this amounts to about $1.5 billion or more. The Victorian public (notably taxi users and bailee drivers) has paid substantially and will continue to pay, even under the inquiry's proposed reforms. Under the inquiry's licensing proposal, this payment is conservatively of the order of $80 million annually and of the order of an estimated $1 billion over time. Compensation or some other form of assistance that is funded by the public will ultimately add to the 'bill' for taxi users.

16.3.6 Facilitating reform

The final potential ground for additional policy measures in the form of adjustment assistance or compensation is the public interest aspect of providing such assistance in order to facilitate delivering the benefits of reform to the wider community.

A significant difficulty in achieving support for worthwhile industry reforms is that the costs, although smaller than the benefits, tend to be incurred up-front and are concentrated on a relatively small group. This is certainly the case in relation to taxi licences where licence ownership is concentrated in the hands of a relatively small group of people. In contrast, the benefits tend to be dissipated throughout the community and may take time to accrue. Again, this is the case with taxi regulation reform. This means that the provision of additional assistance can be viewed as an 'investment' to secure the benefits from reform. In principle, so long as the amount of assistance expended to address opposition is smaller than the benefits from the reform, the community can still be better off than not proceeding with the reform.

Another potential benefit of assistance measures (such as schemes that address economic hardship experienced by those most affected), is that future reforms may face less opposition if the community generally is confident that reforms will take into account the adverse consequences that can arise from reforms.

On the other hand, providing assistance to placate opposition to reform can yield perverse outcomes, one of which is that it may actually strengthen resistance to reform. Providing compensation for one set of reforms is likely to encourage lobbying by others affected by reform proposals in different ways. This can make it increasingly difficult for governments to obtain support for reforms without compensating 'everybody for everything' or making modifications that ultimately reduce their effectiveness. Reflecting on this argument in relation to tax-funded compensation, Kasper observed:

> *Sometimes one hears the pragmatic or opportunistic political argument that compensation payments to affected groups or regions serve to eliminate political resistance to reform. This argument is short-sighted and reeks of political expediency…biddable governments invite noisy political resistance to adjustment…The lesson of history is that policy makers must never promote political 'hold up risks'…*[18]

Whether it is in the public interest to add some compensation or assistance measure to a particular microeconomic reform is ultimately a judgment call for government, based on a balance of the benefits and costs of doing so and considering all of the circumstances.

16.3.7 Conclusion on additional policy measures

The following key points emerge from the inquiry's consideration of whether the effect of its reform package warrants additional measures:

- There appears to be no legal obligation to compensate those licence owners who would be adversely affected by the implementation of the inquiry's recommendations.

18 Kaspar, W.(1999), *Structural change, growth and social justice – an essay*, Productivity Commission, p. 143

- There are no economic grounds for compensating those adversely affected.
- There is an arguable equity/fairness basis for additional measures if it can be established that owners may suffer difficult financial circumstances due to the reforms: for example, owners who are entirely dependent upon the licence income (either assignment or operation). This may include some owners who are now in retirement and were previously long-term owner-drivers and some owner-operators who have debt servicing obligations on loans to finance the purchase of their licences.
- Providing assistance may facilitate acceptance of the reforms, but there is also a risk of creating rent-seeking with this and future reforms that may, in the long run, make microeconomic reforms even more difficult than experience indicates they already are.

While beyond the scope of the inquiry in its implications, an additional observation based on some submissions to the inquiry by owners is that some appear to have made uninformed or ill-advised investment decisions involving taxi licences or invested on a very highly-geared basis.

The inquiry concludes that there may be grounds for the Victorian Government to consider providing closely targeted assistance to licence owners who experience significant financial difficulties due to the implementation of the licensing reform package.

16.4 Targeted assistance in exceptional circumstances

There are two licence-related financial consequences of the proposed change in taxi licensing policy:

- Reduced current income received by licence owners from either
  - leasing licences, or
  - operating taxis (owner-operators paying drivers more may experience a reduction in their net revenue)
- Reduced capital value of licences (reflecting the reduced in income stream from the licence).

The inquiry reiterates that the effect of removing the quantitative restriction on taxi licences on the *capital* value of licences is alleviated for all owners by the recommendation to set a substantial new licence price ($20,000 per annum), rather than recommending a price be set to cover only the administrative cost of issuing new licences.

The question then arises whether there is a need to consider some additional adjustment assistance beyond this mitigation through the new price. The inquiry suggests that if the Government is attracted to this idea, it may wish to consider an approach that centres on closely targeted assistance directed to those licence owners placed in exceptional circumstances as a direct consequence of the reduction in *income* obtainable from a taxi licence.

An additional reason for focusing on the effect on income is that there are differing characteristics of the 'income effect' compared to the 'capital value effect'. The income reduction is much more likely to have an immediate adverse effect on some owners through reducing funds for household living expenses (potentially including debt servicing). Although a capital value reduction happens at the same time as the reduction in income, realisation of the reduced value is not necessarily contemporaneous with the policy change causing it. The change in the market value of a licence may be realised immediately or sometime in the future, possibly even in the distant future depending upon the timing of the owner's decision to sell the licence. Furthermore, the sale of a licence will not necessarily result in a capital loss: the result may be a lesser gain compared to the gain obtainable if the licence had been sold at some earlier time. The main likely effect of an unrealised reduction in capital value will be on an owner's potential access to, and cost of, debt because of a reduced net wealth associated with the reduction (other things being equal).

While favouring a closely targeted approach to assistance relating to the effect of the reduction in licence values, the inquiry is not making specific recommendations to the Victorian Government on this issue. Any additional policy measure(s) will depend upon the exact reforms actually implemented. The inquiry strongly suggests that if the Government determined to provide some additional assistance to licence owners, assistance should relate to the income reduction effect, rather than capital value reduction effect. This is due to the more likely immediate consequences for owners from the former and the provision of some alleviation of the latter through the inquiry's proposed pricing of new licences.

The inquiry further suggests that assistance relate to circumstances where a reduction in the income from a licence demonstrably jeopardises an owner's ability to fund his or her household living expenses. In some cases,

this may include servicing debt incurred to purchase a taxi licence. The inquiry considers that, as a general principle, the provision of targeted assistance should depend upon the existence of financial difficulty directly attributable to the reduction in income from a licence. This circumstance would not be just any monetary loss related to a reduction in the income obtainable from licences; it would require the quality of something more burdensome than an appreciable detriment.

The inquiry is also not making recommendations on the detail of the eligibility for assistance to mitigate such circumstances. This is a complex task requiring further time and resources beyond the scope of the inquiry. Rather than canvass the potential criteria for eligibility in a cursory manner in this report, the inquiry suggests that if the Government is disposed to some form of targeted assistance to industry participants, it could consider establishing an expert committee to advise on and recommend eligibility criteria. For example, such a body could consist of three members with strong credibility as 'wise counsel', supported by an appropriate small secretariat, and operating within a set of guiding principles to:

- Determine the detail of criteria for assessing eligibility within 'guiding principles' set by the Government
- Establish processes and the evidentiary requirements for applications for assistance
- Rule on the application of the criteria to claimants
- Oversee the distribution of assistance to successful claimants.

A key guiding principle could be that demonstrable financial effects on owners from the reduction in income from licences are the central consideration in determining eligibility for assistance. There is very limited data available to the inquiry about how such criteria may apply to Victorian owners. For example, the inquiry is not able to readily establish how many licence owners actually drive taxis. The licence data available to the inquiry, with attendant qualifications, relates to only:

- The assignment or operation of a licence
- Reported assignment income and licence purchase price (with the accuracy of purchase prices problematic outside the Metropolitan and Urban zones)
- Whether a licence is 'encumbered' – that is, whether there is a debt secured against a licence (noting that this information is not necessarily up to date and does not include the amount of the encumbrance)
- The age of the licence owner (noting that an owner may not necessarily be the financial beneficiary of licence income).

A further aspect in considering policies intended to assist industry participants is how to fund any such measure. The four main sources of funding appear to the inquiry to be:

- General government revenue
- Revenue from the sale of the proposed new licences
- A levy on taxis users, perhaps in the form of a temporary surcharge on fares
- A levy on industry participants, perhaps in the form of an annual fee paid by licence owners and/or accredited entities operating in the taxi industry.

Each option has its own set of relative advantages and disadvantages. As a general proposition, funding by a levy on the consumers of taxi services appears to be inappropriate, given consumers already have funded the very high returns to licence owners. In addition, there are likely to be administrative difficulties in ensuring the collection of the increase in fares for that purpose. Recommendation on this matter is beyond the scope of the inquiry and the decision as to which funding approach is most appropriate is likely to be influenced in part by the particular reforms actually implemented.

17 Implementing reform

17.1 Introduction

The inquiry's Terms of Reference include a requirement to make recommendations on 'transitional arrangements from the current regulatory and service arrangements to the recommended model'. Several previous reviews have proposed reforms, but a substantial overhaul of the regulatory regime for the taxi and hire car industry in Victoria has never eventuated. This chapter discusses the sequence of implementation of the major recommendations and some observations on what will be required to initiate and – most importantly – sustain the momentum of reform.

The inquiry emphasises that implementation of its reform package, because it aims for fundamental reform with long term benefits to the community, unavoidably involves a three to five year program of work. It cannot be implemented overnight and the benefits will not be observed overnight. This represents a major challenge to those tasked with implementing the reform. It is unfortunately common for reforms to fail once the initial momentum or 'policy push' is complete and the new system is in place.[1]

It should be noted that the inquiry's suggested sequencing of reforms makes no explicit provision for the amount, timing or method of providing compensation or assistance to licence holders. The inquiry's analysis of this issue is set out in chapter 16. As noted in that chapter, the inquiry is not making any specific recommendations to the Victorian Government on this matter. Accordingly, it is beyond the scope of the inquiry to make provision for the timing of any action related to providing compensation or assistance by the Government into its timing and sequencing proposals.

17.2 Planning for reform

Timing and sequencing of reforms are crucial to the success of the proposed recommendations. Successful implementation will require that the integrity of the reform package is maintained as it is implemented. Omitting key components will undermine the effectiveness of the reforms as a whole and may have consequences that are counter-productive to the objectives of reform.

Implementation of some reforms will require legislative change in the form of amendments to existing Acts, new legalisation or changes to existing regulations: for example, moving from regulated fares to maximum fares, establishing the Public Register of industry participants and implementing the licensing reforms. Legislative changes will need to go through Cabinet and Parliamentary approval processes. Other measures do not require change to Acts or regulations. These measures can be implemented through the decisions and operational actions of the regulator (the VTD, followed by the TSC), the Department of Transport or another agency such as the Essential Services Commission.

The inquiry emphasises the integrated nature of the reforms. These reforms should be seen as a package of measures in which several initiatives are dependent upon the prior implementation of others in order to achieve the desired outcomes. For example, the dissemination of information on the performance of taxi services to enable greater customer choice requires in-vehicle data collection mechanisms to be in place. In other words, the sequence of implementation of the inquiry's recommendations is fundamentally important to realising reform objectives. Accordingly, the inquiry proposes a particular sequence of implementation, set out in Table 8, together with an indicative timing, assuming an early response to the inquiry's report from the Victorian Government.

As Table 8 indicates, the inquiry envisages implementation occurring in several 'tranches' sequenced over time (on the assumption that the Government adopts the inquiry's recommendations). The components and timing of each tranche will be determined by:

- Any interdependencies among the recommendations
- Whether changes to primary or subordinate legislation are required, or only administrative action required, for implementation
- The necessary lead time for legislative processes

1 Examples of reforms that fail are highlighted in Patashnic, Eric M. (2008), *Reforms at Risk – What Happens After Major Policy Changes are Enacted*, Princeton University Press

- The extent of preparatory development work and stakeholder consultation required.

Table 8 Sequence and timing of implementation of recommendations

1st Tranche - Preliminary to key reforms

Indicative timing – late 2012

1 TSC commences development work & consultations with stakeholders on reforms:
- Knowledge driver assessment
- Share ride arrangements
- Driver Agreement
- Hire car licensing reforms (particularly PBOs)
- Model for a Central Booking Service for WATs

2 TSC develops and plans education programs for consumers and taxi/hire car industry

3 Reference to ESC to commence, in consultation with TSC, reviews of:
- Fares determination methodology
- Fares structure
- Setting surcharge on electronic payments at maximum of 5 per cent
- Fare levels (commences gathering information on taxi operation costs)

2nd Tranche - Initial reforms

Indicative timing – mid 2012

4 TSC commences as new regulator

5 Public Register of taxis and customer in-cab access to information commences

6 Taxi fares set as maxima and flat fares (shared ride fares) permitted

7 TSC conducts interim information collection from networks and taxi operators

3rd Tranche - Central reforms

Indicative timing – July to September 2013

Deferred start from initial legislation; second tranche of major legislation for taxi reform

8 The Knowledge requirement commences for taxi drivers

9 New driver accreditation scheme commences

10 New regime for issue of taxi licences on demand for set annual price commences

11 New taxi licence zones commence

12 Mandatory Driver Agreement requirement commences

13 New fares structure commences

14 Taxi Permit Holder system commences (industry accreditation abolished)

3rd Tranche - Central reforms

Indicative timing – 2014

15 ATO standards and Australian Consumer Law requirements commence

16 Fare notification commences in new Regional and Country zones

17 Industry performance reporting commences

18 TSC commences development work & consultations with key stakeholders on:
- Driver safety improvements
- 'Safe ranks'
- Melbourne Airport
- MPTP eligibility review

19 PBOs licensing and other hire cars arrangements commence

20 WAT Central Booking Service established

4th Tranche - Further reforms

Indicative timing – 2015

21 New vehicle standards and safety standards commence

22 DOT commences review of role of taxis in public transport delivery procurement

22 In-vehicle data collection commences

The **first tranche** could commence on the announcement of the Government's response to the inquiry's Final Report and could comprise the commencement of preparatory work for implementing major proposals such as the Knowledge exam, the Driver Agreement and the licensing reforms. There would need to be early amendments to legislation to enable a number of proposed reforms to come into effect. The first tranche period would conclude in the first quarter of 2013 (assuming a prompt response by the Government to the report).

The **second tranche** could commence mid-2013 and mainly comprise the passage of the initial legislative amendments to enable subsequent reforms. Some of the legislated changes could come into effect immediately (such as the Public Register of industry participants); some would come into effect later in 2013 to allow the completion of the development of operational arrangements and consultation processes (for example the commencement of the new licensing arrangements).

The **third tranche** could commence in the second half of 2013 and incorporate the implementation of the central licensing reforms, including introduction of the Knowledge exam requirement and commencement of the mandatory Driver Agreement. The enabling legislation for some of these would have been introduced in the initial amendments; some could be based on legislation introduced in the second half of 2013. Some components would be administratively implemented after a substantial period of development and consultation with stakeholders. This tranche could run well into the 2014 calendar year.

The **fourth tranche** includes several components of the reforms that require longer lead times due either to their dependency on preceding reform components (such as in-vehicle data collection which depends on the installation of suitable technology) or where there is substantial development work and consultations to be completed before a reform can become fully operational – such as the establishment of the Central Booking Service for WATs. This tranche could commence in late 2014 and extend well into 2015.

A further consideration in practice, one the inquiry is not able to anticipate, is the resource capacity available to the regulator and the Department of Transport. The recommendations require a significant program of legislative change with the associated development of detailed legislative proposals. This is time and resource-intensive work for the regulator and the department and would require the commitment of substantial resources to legislative drafting.

Considerable developmental work and stakeholder engagement would also be needed to get to the point of implementation of a number of the inquiry's proposals. This is also time-intensive work and would require particular skills on the part of the regulator.

17.3 Staying the course on reform

The inquiry's recommendations for Victoria's commercial passenger vehicle industry set a challenging regulatory reform task for the new Taxi Services Commission and the Department of Transport – as well as for the industry. The reforms are sweeping and the shift required in the 'mindset' of many industry participants to make them work in the public interest is a fundamental one. History shows that the taxi industry in Victoria – and in other jurisdictions – tends to resist policy proposals intended to facilitate competition and allow market dynamics to shape outcomes.

The inquiry's vision for the future of the taxi industry is one where the industry operates in an environment of competition, where less regulation is favoured over more regulation and where the industry resolves problems through constant improvement measures (driven by competition) and not through government-imposed regulation. As stated in the Draft Report, the inquiry found that the current taxi industry has no established means or culture of 'self-regulation' and could demonstrate little in the way of improvement practices or innovation. The inquiry considers that this is due, in part, to the industry's antiquated and restrictive structure. By contrast, the inquiry noted that the hire car industry is significantly more 'in tune' with its customers – reflected in higher customer satisfaction ratings. The inquiry's view is that new entrants with a fresh outlook – one that focuses on customer service and continuous improvement practices – are needed to embrace change and competition, and raise service standards.

The industry regulator, long used to dealing exclusively with the supply side of taxi services, may also struggle to embrace the new system.

Over the course of the inquiry, it became evident that the taxi industry relies heavily on the current regulator, the Victorian Taxi Directorate, to 'fix' industry problems such as poor driver and vehicle quality. The culture of the taxi industry is to rely on the government (through the VTD) to impose stricter regulations when problems emerge and then rely on the regulator for a greater enforcement effort.

One clear example of this is in relation to driver quality. Currently, two primary Network Service Providers are also Registered Training Organisations (RTOs). These RTOs deliver driver training courses and must bear some responsibility for the industry's problems with driver quality, as it is their role to ensure that drivers who 'pass' the course are of an acceptable standard. In essence, as noted in the Draft Report and this Final Report, the taxi industry created a problem of excessive numbers of drivers who were inexperienced or new and who were prepared to accept very low levels of remuneration, took no responsibility for improving driver standards and then exacerbated the problem through ineffective self-regulation – which, in turn, has had a severe impact on the industry's sustainability. As driver standards fell and customer satisfaction dropped, the taxi industry 'blamed' the VTD for not effectively regulating drivers, despite the industry facilitating the problem in the first instance. The VTD responded with targeted and time consuming enforcement, which failed to raise driver standards.

The inquiry found that the taxi industry and regulator have been overly dependent upon each other to solve problems and that this close relationship is not always to the benefit of consumers. Indeed, the inquiry found little meaningful engagement instigated by the industry or the regulator with the Victorian community. The VTD has several stakeholder groups with representation from drivers, taxi operators and Network Service Providers, but no representative groups or regular engagement activities with taxi or hire car users or stakeholders, such as local councils or business associations – although the inquiry notes that the VTD has made significant progress in recent years to engage with taxi users with a disability through the establishment of a consultative group that now meets regularly. The inquiry found examples of the regulator benchmarking its performance against taxi industry expectations and perceptions, but could find no examples of benchmarking its performance against community standards or customer expectations. The inquiry considers that, for reform to be sustained over the longer term, the TSC will need to focus on community and consumer engagement as a priority, as well as focusing on more effective industry engagement.

The inquiry considers that the future Victorian taxi industry should be responsible and accountable for its own service standards and failings. The inquiry's recommendations will facilitate this change through service standards for Authorised Taxi Organisations (ATOs), complaints reporting, an easy to access Public Register of industry participants along with regularly reported 'league tables' of performance. Taxi users, and competitors, will be able to monitor the service standards of taxi companies and make informed choices. Removing the quantitative restriction on taxi licence numbers and reducing the barriers for PBOs means that, over time, new enterprises and services will emerge in response to customer demand. Future enforcement by the TSC should be intelligence-driven, with greater emphasis on safety related risks and serious non-compliance (such as illegal PBOs or non-roadworthy vehicles) and not on solving problems that the taxi industry should fix itself.

The TSC will also need to work closely with the industry to educate industry participants on the reforms, making it clear that these measures will not be overturned and that the industry must move to a more competitive footing. The TSC will need to put early measures and triggers in place to ensure 'old habits' do not continue into the new system, establish effective engagement with taxi users and the community as a priority and ensure that its future responses and actions promote a culture of appropriate industry self-regulation and are in line with the intent behind the reforms. In particular, the TSC should actively encourage responsible new entry, facilitate innovation in the delivery of services and the opening up of new markets, and remove unforeseen barriers or regulatory 'red tape' as they emerge. Essential to this new approach will be improving the evidence base for better informed regulatory policies and decision-making.

The inquiry does not underestimate the task of the new regulator in developing and implementing these reforms. This task should not be viewed lightly or seen as a 'minor' regulatory project. Staying the course of reform over the next three to five years will involve considerable challenges and require the regulator to be resilient, persistent and consistent in its dealings with the industry. Strong and skilled leadership from the TSC will also be critical to staying the course and assisting the industry make the transition to being responsible for maintaining and improving service and standards. Resources capable of meeting this task should be available to the TSC – otherwise the benefits of reform to the Victorian community will be at risk and the pattern of failed public interest reforms in the taxi industry will be even further entrenched.

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Annex

Modelling of proposed reforms and alternatives

Introduction

A key task for the Taxi Industry Inquiry has been to understand the likely implications of policy changes on prices and quantities of taxis services consumed, and then to understand the effects on existing industry participants. This includes the effects of policies that allow for more licences and for changes in driver remuneration.

To inform this analysis of the effects of reform, the inquiry has undertaken some economic and financial modelling that captures key features of the taxi industry. This annex describes the foundations of the model, the data sources relied upon and how the inquiry has used the model.

Model background and description

All models of markets are simplifications of how things actually work. Good models are those that are able to take into account the key features of the market and provide explicit linkages between how changes in certain variables (such as the number of taxi licences) affect other variables (such as the cost of supplying taxi services). However, any models should not be unduly complex as this complicates understanding, as well as introducing further requirements for data and opportunities for specification error.

There are a number of models of the taxi industry that capture key market features and that could, at least potentially, be useful for practical analysis. The inquiry's assessment is that better models are able to take into account important factors that are specific to the taxi industry. The foremost of these is the inter-relationship between demand and supply of taxis due to the effect of waiting time on demand: a greater supply of taxis can increase the demand for taxi services by increasing availability and decreasing waiting times. This makes the conventional price-quantity relationship difficult to model and represent, as the price for taxi services might be associated with more than one quantity (with the difference represented by difference in waiting time or 'quality' of the service).

A model that is relatively straightforward to implement, but still takes into account the inter-relationships between supply and demand, is the model of Rouwendal et al (1998).[256] This model, which draws on the work of Beesley and Glaister (1983)[257], adopts some relatively simple functional forms for cost, demand and waiting times. The inquiry has developed and used this model to assist in developing and evaluating policy options for the Melbourne metropolitan taxi market. The key elements of the model are:

- Market demand (Q – the quantity of passenger kilometres driven) is a linear function of price and waiting time.

$$Q = \beta_0 + \beta_1 P + \beta_2 W$$

- Profit (measured per taxi) is a residual item, from which payments to licence holders are derived. It is a function of fares (P), variable costs (a), passenger kilometres per taxi (q) and fixed costs (F). Fixed costs include a return or margin for the operator.

$$\Pi = Pq - aq - F$$

- Taxi response (waiting) time is inversely and non-linearly related to the number of vacant taxis (V). C_1 is a constant, which can be derived from the initial waiting time and number of vacant taxis per hour (occupancy ratio).

$$W = \frac{C1}{V}$$

256 Rouwendal, Meurs and Jorritsma (1998), *Deregulation of the Dutch Taxi Sector*, Paper presented at European Transport Conference. Economists employed by the VTA to comment on the release of new licences in 2009 referred to the Rouwendal et al. model in their policy analysis of new licence releases proposed at that time.

257 Glaister, S. and Beesley, M.E.(1983), *Information for Regulating: the Case of Taxis*, Economic Journal, Vol 93, pp. 594-615

- V depends on both the number of taxis and the demand for those taxis (that is, as total taxis increase, V increases). N is the total number of taxis, T is the average hours driven per taxi and C_0 is the average time it takes to drive one passenger kilometre (derived from average trip length, time and average speed).

$$V = N - \frac{Q}{T} C_0$$

The form of the model adopted assumes that more taxis will uniformly decrease waiting times – that is, they will not just sit at ranks. In that sense, it may be considered a better model of how the cruising/hail or pre-booked markets work.

For policy analysis, the model can predict what will happen following a number of different kinds of policy 'shocks'. For example, it can illustrate how reducing fares to eliminate payments to licence holders will result in lower fares. It could also lower demand for taxi services as waiting times rise if there is no increase in the number of available taxis. The predicted quantity effects from lower fares are then conditioned by this response, which depends on the elasticity of demand with respect to (the now higher) waiting time.

The outputs of the model include:

- Price (average fare per km)
- Number of taxis
- Total demand (passenger km)
- Response time (waiting time)
- Passenger kilometres per taxi
- Sales per taxi
- Costs per taxi (including operator return)
- Payments to licence holders
- Cost per taxi per km
- Occupancy ratio per taxi.

Payments to drivers can be incorporated as part of the costs of taxi operation. This can be modelled either as part of fixed costs or variable costs, or with an element of both. Driver payments per hour can also be incorporated by relating costs to revenues, as per existing revenue-share arrangements which are prevalent in Victorian markets. The inquiry generally modelled driver payments as a fixed cost, on the basis that full time taxis are modelled (average 5,565 hours of operation) and that offering payments below current levels is not plausible as drivers will not work for less than current (very low) levels of remuneration. This is consistent with the current 'driver shortage' widely reported in the industry and believed to be due primarily to insufficient remuneration.

The model also can be augmented to estimate the effect of more hire cars on taxi demand by incorporating hire cars directly into the taxi demand function (with taxi demand negatively related to hire car demand).

The model can also be used to produce estimates of effects of policy changes on community welfare; that is, taking into account the effects of changes on consumers' surplus (the excess of consumer value over the market price) and producers' surplus (the excess of profits over resource costs).

The model starts with a picture of the Melbourne market in 2011, but can be modified to incorporate changes in market structure over time (such as shifts in demand due to increasing population).

Applying the model to Melbourne's taxis

To use the model effectively, it must be populated or 'calibrated' using available data that is relevant to Melbourne. The data required to calibrate the model, plus the inquiry's current estimates and source, is provided in Table 9. These values are then used as the 'base case' or starting values in policy simulations.

Table 9 Model inputs, sources and base case values

Data input	Data source	Base case value
Current fare per km	Industry data	$2.43
Number of taxis (adjusted for peak service licences)	VTD	4,085 (Peak time licences have been converted to equivalent full time licences)
Passenger kilometres per taxi	Industry data	62,530
Base driver payments (costs)	Industry data, assumes 50/50 split	$75,975
Variable cost per passenger kilometre	Industry data, Inquiry estimates	(a) $0.46 (All driver costs are fixed)[258] (b) $0.83 (some driver costs are variable)
Fixed cost per taxi per year	Industry data, Inquiry estimates	(a) $93,974 (driver costs fixed) (b) $71,166 (driver costs variable)
Payments to licence holders	Industry data	$29,000
Vehicle hours	Inquiry estimates, set to broadly match utilisation data	5,565
Average waiting time	Industry data based on booked work	8.6 minutes
Own-price elasticity of demand for taxi service	Inquiry estimate based on survey data[259]	-1.02
Waiting-time elasticity of demand for taxi service	Inquiry estimate based on survey data[260]	-0.39
Time taken (minutes) for average trip (function of average trip length and average speed)	Inquiry estimate	17 minutes
Time taken per kilometre, fraction of 1 hour	Inquiry estimate	0.03 (1.8 minutes)

Applying the model

The inquiry has used the model to inform a number of its key policy recommendations (and to assess other options that are not being recommended). This has included:

- Impact of changing driver remuneration from 50/50 to other splits
- Impact of reducing licence prices while leaving fares unchanged
- Impact of increasing the number of taxi licences more generally, such as via an approach that maps the release of taxi licences to demand for taxi services and/or other triggers
- Impact of increasing the number of hire car licences on taxi demand.

258 In the original formulation of Rouwendal et al, driver costs are held fixed (case (a)). In Victoria, drivers are predominantly remunerated using revenue-sharing arrangements that vary with the number of passenger kilometres driven. However, drivers must also be remunerated for their time spent in the taxi and not taking passengers, so that at least part of the driver cost should be considered to be fixed with respect to passenger kilometres. The approach taken in case (b) follows the approach of the ESC in the 2008 fare review.

259 See The Hensher Group Pty Ltd (2012), *Demand for Taxi and Hire Car Services in Melbourne – Prepared for the Taxi Industry Inquiry*, Melbourne

260 Ibid.

The outcomes of the modelling are discussed at relevant points in this report. The inquiry also comments further in this section on aspects of the modelling that provide further context to its recommendations on particular issues: predicted new entry under the proposed licensing approach; the welfare costs of restrictions on taxi licences; and comparing the inquiry's licensing proposals with those advanced by industry representatives.

The inquiry notes that the modelling it has developed is a useful way to capture the key effects of policy changes. However, this modelling should not be seen as definitive. Industry participants may not always behave exactly as the modelling predicts, particularly as the kind of reforms proposed by the inquiry will cause a significant change to prevailing industry practices. This might mean that the results of reform in the short term are different to those modelled before settling down to the predicted outcomes that subsequently emerge.

Predicting new entry in the short term

As an example, the model can be used to predict the number of taxis that would enter under the proposed $20,000 annual fee and a higher share of the fare box for drivers. This is discussed further in section 3.3.3. The model output for this appears in Table 10 below and is based on the following process:

- An estimate of the impact of the higher revenue on driver payments is entered (based on the nominal 10 per cent increase from 50 to 55 per cent).
- The model is re-solved by changing the number of taxis so that payments to licence holders are reduced from the base case of $29,000 to $20,000 (the new annual licence price). $29,000 is used as the starting licence price, reflecting that the current price is around $30,000 but that prices for assignments tend to be set over three-year periods, so that there is a lag in the average assignment price moving to the current price.
- Adjustments may also be made to expected revenue, reflecting changes from other parts of the package (such as advertising revenue) or to account for expected lower costs. This has not been included in the output below.

Table 10 Modelling summary – base case vs entry at $20,000 per annum

Outputs	Base case (starting values)	$20,000 licences, 55/45 split
Price	2.43	2.43
Number taxis	4,085	4,174
Total demand (passenger kms)	255.4m	258.m
Response time (minutes)	8.6	8.3
Passenger kilometres per taxi	62,530	61,821
Sales per taxi	152,000	150,225
Resource costs per taxi	123,000	130,225
Payments to licence holders	29,000	20,000
Cost per taxi per km	1.97	2.11
Occupancy ratio	30.0%	29.7%
Driver payments per hour	13.65	14.85

The inquiry's modelling predicts around 100 new taxis on this set of assumptions. The inquiry has also conducted some sensitivity analysis on these results and has found that the likely entry is particularly sensitive to:

- The initial payment to licence holders (assignment value); and
- The size of the increase in driver remuneration that is assumed to flow through into increased driver payments.

On the initial payments, the inquiry considers that the evidence suggests that the appropriate payment to use is between $27,000 and $30,000.

The driver remuneration assumption largely depends on the extent to which owner/drivers are prepared to accept lower remuneration than that implied by the 55/45 split. If, for example, the owner engages a driver for one third or one half of the time, then the increase in cost caused by higher driver payments will only be 5 per cent or 3.33 per cent. This could cause more significant entry to occur.

These effects are summarised in the following two tables.

Table 11 Sensitivity of modelling results

Changes to driver shares	Base case	$20,000 licences, 55/45 split	$20,000 licences, 5% increase in driver remuneration	$20,000 licences, 3.33% increase in driver remuneration
Price ($ per paid kilometre)	2.43	2.43	2.43	2.43
Number taxis	4,085	**4,174**	**4,418**	**4,500**
Total demand (passenger kms)	255.4m	258.m	264.6m	266.6m
Response time (minutes)	8.6	8.3	7.8	7.6
Passenger kilometres per taxi	62,530	61,821	59,889	59,245
Sales per taxi	152,000	150,225	145,531	143,966
Resource costs per taxi	123,000	130,225	125,531	123,966
Payments to licence holders	**29,000**	20,000	20,000	20,000
Cost per taxi per km	1.97	2.11	2.10	2.09
Occupancy ratio	30.0%	29.7%	28.8%	28.4%

Different base case assumptions – payments to licence holders	Base case	$20,000 licences, 55/45 split	Base case	$20,000 licences, 55/45 split
Price ($ per paid kilometre)	2.43	2.43	2.43	2.43
Number taxis	4,085	**4,238**	4,085	**4,047**
Total demand (passenger kms)	255.4m	259.8m	255.4m	254.3m
Response time (minutes)	8.6	8.2	8.6	8.7
Passenger kilometres per taxi	62,530	61,312	62,530	62,838
Sales per taxi	152,000	148,989	152,000	152,696
Resource costs per taxi	122,000	128,989	122,000	132,696
Payments to licence holders	**30,000**	20,000	**27,000**	20,000
Cost per taxi per km	1.95	2.10	1.95	2.11
Occupancy ratio	30.0%	29.4%	30.0%	30.2%

The inquiry concludes from this modelling that actual entry as a result of the reforms proposed is likely to be between zero and 400 new taxis in the short term if demand, fares and costs are held constant.

Quantifying the welfare impacts of restrictions

In the Draft Report, the inquiry noted that restrictive licensing is very likely to cause significant losses in community welfare. The source of these losses is that prices for taxi services reflect not only the resource costs of producing taxi services – the costs of the vehicle and the driver's time – but also payments to licence owners. The existence of high licence values suggests that there are some potential welfare gains for the community if these profits could be removed and lower prices charged. Although licence owners will lose from this re-arrangement, in general, consumers will gain more from lower prices than licence holders will lose.

Economists and review authorities have often attempted to measure the size of the welfare loss and/or potential welfare gain caused by restrictive licensing. This involves estimating the shape of demand and supply curves for taxi services and comparing the actual price and quantity combination under restrictive entry with an alternative combination estimating a different price and quantity combination.[261] At this lower price, there is no new entry by taxis because all the expected profits from entering have been removed.

A weakness with these estimates is that they assume that prices can merely be reduced to a competitive price (by regulation) with no effect on demand. But evidence from actual taxi markets suggests that the reality is not this simple. Supply and demand are likely to be interdependent: more supply increases vacancy rates, which lessens waiting times and creates more demand. The strength of these effects can be very important. Lowering prices, which would increase demand, also reduces the supply available to other potential consumers and can lengthen waiting times. This causes the demand curve for taxi services to shift inwards (demand is lower at each price level), meaning that less will be consumed at the prevailing price.[262]

As discussed further in the Draft Report, it is possible that the best approach to measuring welfare costs would be to consider a mix of both fare reductions and improvements in availability. These considerations were illustrated graphically in Figure 10.3 of the Draft Report.

These diagrams, replicated in Figure 9, illustrated the potential benefits for consumers from two different policy changes, starting from a position of fares at (f_0) and quantity of trips at Q_0: (a) reducing fares by removing assignment fees from fares and (b) keeping fares at current levels, but allowing free entry so that no above-normal profit would be earned from operating a taxi.

Which approach is likely to 'better' measure the costs of the restrictions depends on a number of market features. In an environment where licences have been strictly controlled, the benefits from lowering fares without increasing the number of taxis may be limited, because the increase in waiting times that results also causes large consumer losses. In these circumstances, it would be better to increase availability. Conversely, if the problem is not one of availability but high prices built into fares, then the losses could be better stemmed by focusing on fare reductions.

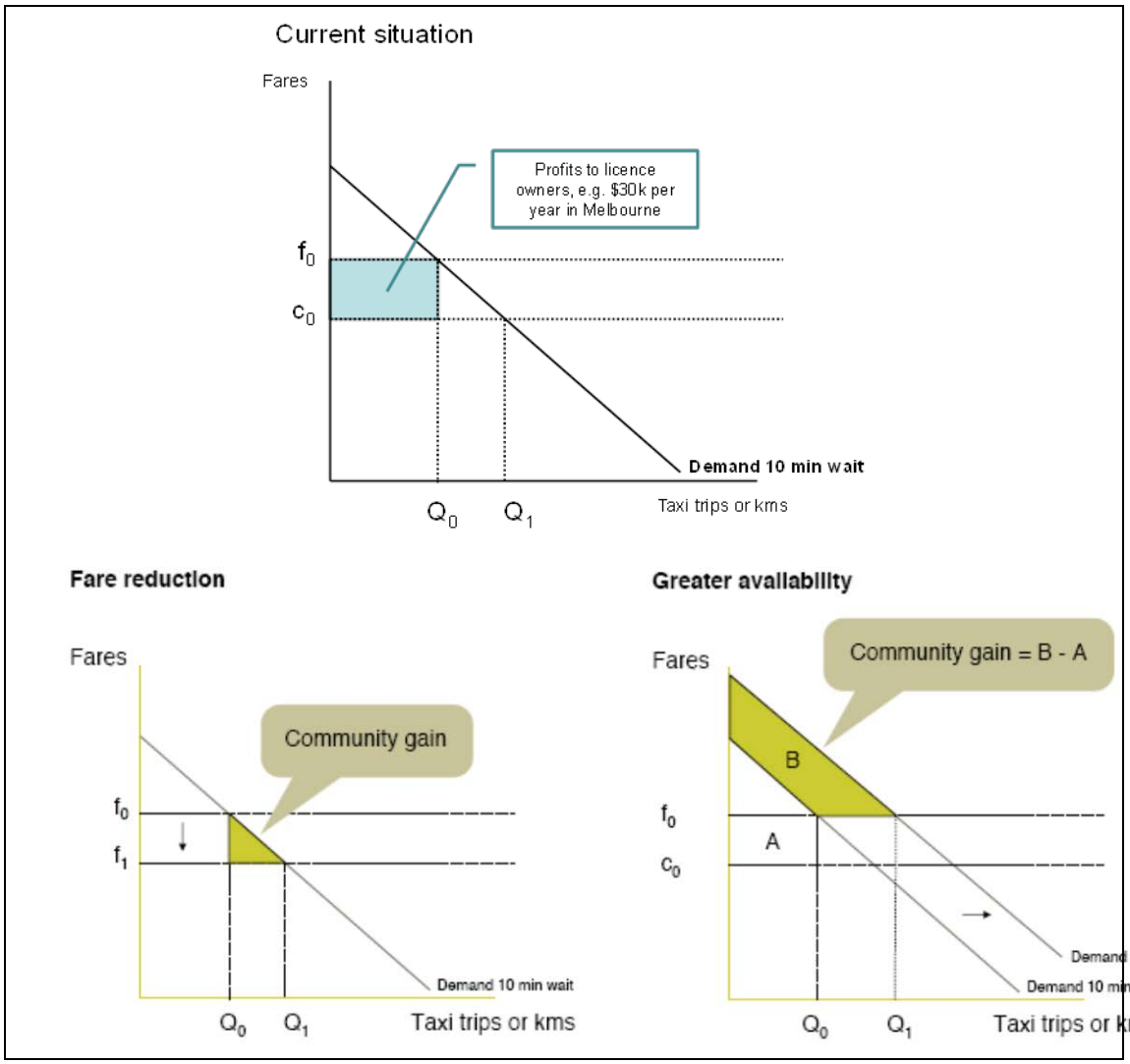
In these three figures, the initial situation is shown first and then the potential costs of restrictions (or gains from reform) are illustrated in two different ways. The first assumes that fares are reduced, assuming that waiting time can be held constant (fares fall from f_0 to f_1). The gains to the community are represented by the shaded triangle (the *transfers* between licence owners and consumers are not a source of welfare gain or loss). The second diagram illustrates a situation where fares remain at their present level, but sufficient new entry is allowed to reduce the profits from operating a taxi to zero (costs increase from c_0 to f_0). This reduces waiting times and increases the demand for taxi trips. The two policies can be compared with the 'base case' of no change.

261 For example, in the 1999 KPMG report, the size of the loss was estimated by calculating a 'competitive price' for taxi services and measuring the gains and losses to consumers and producers at this new price (which removed the licence value from the average price). A similar exercise was undertaken in the ESC's 2008 fare review and in Gaunt, C. and Black, T. (1996), 'The economic cost of taxi-cab regulation: the case of Brisbane' in *Economic Analysis & Policy*, vol. 26, no. 1, March 1996, pp.45-58

262 In Abelson (2010) a different approach is taken that draws on the concept of generalised cost that is often employed in transport economics. The demand for taxi trips is shown as a function of generalised cost, which is the sum of the fare and the user cost of waiting time. Abelson estimates potential efficiency gains of over $265 million per annum. See Abelson, Peter (2010), 'The High Cost of Taxi Regulation, with Special Reference to Sydney', Agenda, Volume 17, No. 2

In the example shown, drawn with a linear or straight line demand curve, the gains to the community from the increased number of trips and the value of those trips will significantly outweigh those from lowering fares without allowing new entry. This occurs even though costs to taxi operators under the greater availability scenario have increased compared to the base case, and 'A' appears as a welfare loss.

Figure 9 Identifying the welfare costs of entry restrictions - two alternative methodologies



As noted, the simplest modelling calculation of welfare loss comes from eliminating the estimated rents and assessing the value of the increased supply to consumers against the losses to licence owners. A calculation using a demand elasticity of -1.02, consistent with the inquiry's survey evidence, and assuming no waiting time effects, suggests these costs (or 'deadweight losses') are in the order of $11 million per year. This is based on a linear demand curve, a fall in price of 19 per cent, an increase in quantity of 19 per cent and a calculation of (change in quantity)*(change in fares)*(0.5).

The inquiry's further modelling of the different scenarios also takes into account waiting time effects and also some economies of scale effects. Waiting time effects, as described in Figure 9, result in shifts in the demand curve. Cost or scale effects are also relevant as the low level of fleet utilisation suggests that increases in passenger kilometres could be achieved without proportionate increases in costs (that is, there are some fixed costs that will not increase as quantity increases), meaning this is an additional source of efficiency gain.

The inquiry's modelling suggests the following:

- The restrictive entry policies impose significant costs that could be ameliorated by either reducing fares or allowing more entry
- As the own-price elasticity of demand is currently estimated to be relatively high, the gains from reducing fares tend to outweigh those from greater availability, even to the point where allowing open entry but not reducing fares would result in a welfare loss (A would be less than B, in Figure 9)
- The best outcome would combine fare reductions with more entry.

In Table 12, the inquiry provides the output from the base case and from three different modelling scenarios:

- Reducing fares by the full amount of the existing economic rents, but fixing the quantity of taxis
- Fixing fares, but allowing the quantity of taxis to vary
- Combining the two approaches, by modelling for a solution of fare reductions and quantity increases such that the quantity of taxi trips is maximised and each taxi earns revenues equal to its (fixed and variable) costs. This is called 'optimal combination' in the table below.

Table 12 Summary of inquiry's modelling results comparing outcomes with and without licensing restrictions

Outputs	Base Value	Remove rent, no free entry	Maintain fares, free entry	Optimal combination
Price ($ per paid kilometre)	2.43	1.75	$2.43	1.94
Number taxis	4,085	4,085	6,178	5,086
Total demand (passenger kms)	255.4m	315.8m	295.2m	325.8m
Response time (minutes)	8.6	9.54	5.1	6.96
Passenger kilometres per taxi	62,530	77,308	47,787	64,058
Sales per taxi	152,000	135,196	116,123	124,222
Resource costs per taxi	123,000	135,196	116,123	124,222
Payments to licence holders	29,000	0	0	0
Cost per taxi per km	1.97	1.75	2.43	1.94
% changes				
Change in producer surplus ($) (payments to licence holders)		(118,464,999)	(118,464,999)	(118,464,999)
Change in consumer surplus ($)		164,024,678	102,209,957	194,479,554
Summary: Total welfare effect ($)		45,559,678	(16,255,043)	76,014,554

Comparing the inquiry's proposals with industry proposals

The inquiry shared some of its modelling, including a description of how the model works and some of its key outputs, with industry representatives TISV and the VTA after the release of the Draft Report. Each organisation engaged professional advisers who scrutinised the inquiry's modelling results and produced their own modelling using the input data collected by inquiry.

During the course of the inquiry, industry groups made a number of submissions supporting approaches to licence release that are specifically related to measurable increases in demand and/or other criteria related to demand (such as increases in waiting times). The VTA supplied some preliminary modelling work it had commissioned from PwC, which provided some detail about its assessment of how the inquiry's and the industry's preferred approaches might work over periods of five and 10 years. The industry's preferred approach is largely based on releasing licences depending upon changes in demand and possibly other performance triggers.

The inquiry considers that for a model to be able to predict behaviour and market outcomes, it must be capable of producing results that are consistent with rational behaviour. In this light, the inquiry suggests that modelling that predicts that taxi operators will consistently earn negative margins or margins below a 'normal' economic or commercial return are not likely to be useful for predictive purposes. Rather, it represents a weakness in the way the model is constructed.

Both modelling exercises provided to the inquiry by industry advisers were not consistent with this expectation of rational behaviour. Rather, assumptions were made that assumed a path of entry regardless of the underlying state of the industry. It was clear from reviewing both models that entry of as many taxis as modelled would produce a negative margin for operators (that is, not just below a normal commercial return, but a *negative* return). Why operators would continue to take licences up when they could not hope to make a normal return on their investment is not explained and the inquiry rejects this modelling as being a misrepresentation of the likely outcome.

The inquiry considers it to be fundamental that modelling of the inquiry's proposals must produce outcomes consistent with operators making a sufficient return to be able to pay licence holders (including the Government where this is a new licence) $20,000 per year. The inquiry's modelling starts with this fundamental feature and its model endogenously (that is, within the model) calculates the number of taxis that would be consistent with that level of profit. Therefore, it is relatively straightforward to measure the impact of the inquiry's preferred licensing approach over time. Changes to demand, fares and costs can also be made, with the number of taxis determined by payments to licence owners – such as $20,000. This modelling also incorporates the effect of changes in fares and in waiting times on demand (via a feedback loop) and in turn takes account of the impact of demand on the number of taxis supportable.

In contrast, modelling the likely effects of the proposals presented by industry is not so straightforward. They impose assumptions on growth in taxi licences based on estimated demand growth, rather than having clear relationships that can explain entry decisions by taxi operators. Therefore, the inquiry has considered two means by which the VTA (and other industry) proposals of releasing licences in accordance with observed changes in drivers of taxi demand might practically work:

- By allowing the release of a suitable number of licences such that waiting times do not increase. This could be a reasonable approximation if waiting times are a relatively large component of the licence release index measure. Increases in demand that lengthen waiting times will then cause the release of more licences. (This is described as 'Industry proposal 1' in Table 14); or
- By allowing the release of the number of licences that holds payments to licence holders at a capped level. That is, if it is assumed that assignment payments are a significant component of the licence release index measure, then increases in demand that feed through to higher assignment prices will feed through to licence increases, which will in turn reduce the assignment prices. The inquiry further assumes that 'capping' here means holding the current payment to licence holders of around $29,000 to $30,000, increased by 0.5 per cent per year less than fare growth. (This is described as 'Industry proposal 2' in Table 14).

The inquiry has run a number of simulations to determine the effects of these different policies. The assumptions run on the inquiry's model are summarised as follows.

The inquiry's modelling does not propose a reduction in fares, even though the new $20,000 licences are a reduction from the assignment value that is currently incorporated in the ESC's fare model from 2008 (around $23,000) and well below current market assignment rates. This is because there is an offsetting cost increase for operators – higher driver payments.

Under the VTA approaches, the inquiry considers there is some immediate risk that fares will need to rise to incorporate a higher assignment value. This is because this higher assignment value must be factored into fares for an operator that assigns to just make a normal profit, and the current implied value is below the value last measured in 2008. Even if this is ignored, it will be necessary to factor in higher fare growth under the VTA approaches. This is because assignment costs (payments to licence holders) will continue to grow under these approaches. In contrast, under the inquiry's approach, there will be no increase and this means that only 80 per cent of the cost base can rise over time. Payments to licence holders currently represent around 20 per cent of operator cost, although this will decline over time as other costs rise and assignment prices remain fixed.

The assumptions used in the modelling are outlined in Table 13. There are two assumptions of note. The first is the slower annual growth in fares under the inquiry's approach, which reflects the inquiry's capping of assignments (via the issue of new licences) at a fixed nominal value (i.e. zero growth). The second is the lower value for elasticity of demand than found in the inquiry's survey work, as this base value of -1.02 is based on static comparisons of prices (i.e. assuming the price of all other goods and services remains constant). Over longer time periods, a lower value should be used, more consistent with changes in the real price of taxi fares.

Table 13 Growth assumptions used in the inquiry's longer term modelling

Assumption	Figure	Source of estimate
Cost growth (excluding payments to licence owners)	3.5%	Consistent with historic fare growth between 1991 and 2011[263]
Fare growth under TII proposals	3.5%	Consistent with historic fare growth
Fare growth under industry proposals	4.0%	Higher growth than TII assumption reflecting higher payments to licence holders
Demand growth (pre-waiting time effects)	2.5%	Consistent with moderate growth in income and consumption
Own-price elasticity of demand	-0.51	One-half of inquiry surveyed value

The inquiry compares its modelling of the approach recommended in this report with its modelling of the licence trigger approaches supported by the VTA in the tables below, estimated over five, 10 and 20 years.

Table 14 Comparing the inquiry's proposals with industry proposals (five, 10 and 20 years)

5 year	Base year	Industry proposal (1)	Industry proposal (2)	TII proposal
Fares ($ per passenger kilometre)	2.43	2.96	2.96	2.89
Number taxis	4,085	4,111	4,389	4,491
Passenger demand (million passenger kilometres)	255.4m	260.9m	268.6m	274.5m
Response time (minutes)	8.6	8.6	7.9	7.7
Payments to licence holders ($)	29,000	41,059	35,631	20,000
Driver payments per hour ($)	13.66	16.86	16.26	17.44
Total driver payments ($m)	310.5m	385.6m	397.1m	435.7m
Licence value[264] ($)	480,000	684,000-912,000	594000-792,000	250,000-300,000

10 year	Base year	Industry proposal (1)	Industry proposal (2)	TII proposal
Fares ($ per passenger kilometre)	2.43	3.60	3.60	3.43
Number taxis	4,085	4,119	4,654	4,825

263 See Figure 5.17 in the Draft Report.

264 The lesser figure is based on valuing the licence at its historic yield value of six per cent; the higher value takes into account a discount rate of eight per cent and factors in growth in assignment returns at 3.5 per cent per year.

Passenger demand (million passenger kilometres)	255.4m	262.5m	276.5m	288.4m
Response time (minutes)	8.6	8.6	7.4	7.1
Payments to licence holders ($)	29,000	55,019	42,318	20,000
Driver payments per hour ($)	13.66	20.60	19.20	20.25
Total driver payments ($m)	310.5m	472.1m	497.3m	543.8m
Licence value ($)	480,000	917,000-1,223,000	705,000-940,000	250,000-300,000

20 year	Base year	Industry proposal (1)	Industry proposal (2)	TII proposal
Fares ($ per passenger kilometre)	2.43	5.32	5.32	4.84
Number taxis	4,085	4,056	4,775	5,194
Passenger demand (million passenger kilometres)	255.4m	249.5m	267.6m	299.6m
Response time (minutes)	8.6	8.6	7.0	6.5
Payments to licence holders ($)	29,000	83,825	59,694	20,000
Driver payments per hour ($)	13.66	29.43	26.81	27.56
Total driver payments ($m)	310.5m	664.3m	712.4m	796.7m
Licence value ($)	480,000	1,400,000-1,863,000	950,000-1,327,000	250,000-300,000

The inquiry concludes that:

- In the shorter term:
  - The inquiry's proposals produce significantly more entry than the approach that maintains waiting times (Industry proposal 1) and more entry than the approach that caps assignments at their current level in real terms (Industry proposal 2)
  - Waiting times are significantly reduced under the inquiry's approach and also reduced under Industry proposal 2
  - Fares are broadly similar under all approaches
  - There is a significant benefit to drivers under the inquiry's proposals compared to Industry proposal 2, due to the increase in payment to 55 per cent of the fare box. This reflects the desired transfer from licence owners to drivers, which should have some further impact on driver quality (not modelled here).
- In the longer term (10 to 20 years), the differences between the approaches become more stark:
  - The impact of capping assignment values at $20,000 means that there is significantly more entry, a slower growth in fares and significantly more trips taken in taxis than in either Industry proposals 1 or 2
  - The impacts of the licensing restriction become minimal under the inquiry proposals, as licence values stay at around $250,000 in nominal terms ($150,000 in real terms) while continuing to grow under Industry proposal 1 (to very high levels) and increasing in nominal terms under Industry proposal 2 (and even this outcome assumes that the industry's proposal of assignment capping via licence release is implemented effectively)
  - Considerably more money from the fare box makes its way to drivers, with at least nine per cent more revenue going to drivers than under either of the industry proposals.

The inquiry considers that this modelling demonstrates the benefits to consumers of moving to a less restrictive licensing system. The short term benefits arise in the form of better driver quality, while in the

longer term benefits derive from lower fare growth, greater availability and growing the market more generally.

This modelling also does not take account of benefits from greater scope to innovate and do more non-traditional taxi work, which becomes more feasible with lower licence prices (including share rides and fixed route work). Nor does it account for additional cost savings that are achievable through the proposed measures, including advertising and the removal of mandatory affiliation.

Impact of hire car changes

The inquiry has also considered how changes to the regulation of hire cars and the introduction of PBOs will affect demand for taxis. This can be incorporated into the modelling by bringing hire car demand into the demand function for taxi services. While it could be expected that the two are negatively related – so that more hire cars would lead to reduced taxi demand – it is highly uncertain just how close this link is. Formally, in the model this is reflected in a cross-elasticity: the percentage impact of a one per cent increase in hire cars on the demand for taxi services. The inquiry considers this value must be inferred based on a reasonable judgement of the likely substitutability of these services and the respective shares in demand of the two services currently (that is, it is unreasonable to assume a very large cross effect, purely because taxis currently have a far greater share of demand for pre-booked services).

The inquiry's modelling has therefore focused on the impact of cost reductions from lower licence prices and the removal of luxury vehicle requirements, and the increased entry this may facilitate. This modelling indicates that the proposed changes will have a relatively minor impact in the short term. This is because the cost savings expected are not quantitatively large – the inquiry estimates cost savings of around $3,000 per year broadly split between similar-sized reductions in licence and vehicle costs. This is expected to lead to entry of around 100 to 200 more hire cars.

At this rate of entry, the inquiry expects that the impact on demand for taxi services will be relatively minor. For example, using an elasticity of taxi demand with respect to numbers of hire cars of -0.05 (a 10 per cent increase in hire cars leads to a –0.5 per cent fall in taxi demand) with 200 new hire cars would lead to just over a one per cent decrease in taxi demand. This is the equivalent of 13,000 passenger kilometres per new hire car that switch from taxi users. This kind of effect would only have a minimal impact on the operation of taxi services in the short term.

Finally, the inquiry does not factor in any changes in prices by PBOs as part of this modelling and nor would it be appropriate to do so. The reason is that the proposed changes primarily affect fixed costs and changes in fixed costs do not affect firms' pricing decisions. A well-known result in economics is that firms profit-maximise by equating marginal revenue with marginal cost, not fixed costs. The size of fixed costs ultimately determines how many firms will be feasible in the industry and this is the kind of effect modelled by the inquiry.

List of acronyms

4WD	Four Wheel Drive
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
APCA	Australian Payments Clearing Association
ATDA	Australian Taxi Drivers Association
ATO	Authorised Taxi Organisation
BCC	Black Cabs Combined
CAV	Consumer Affairs Victoria
CBD	Central Business District
CBS	Central Booking Service
CCTV	Closed-circuit television
CEO	Chief Executive Officer
CH	Country hire car
COAG	Council of Australian Governments
CSM	Customer Satisfaction Monitor
DARU	Disability Advocacy Resource Unit
DOT	Department of Transport
DSAPT	Australian Disability Standards for Accessible Public Transport
EFTPOS	Electronic Funds Transfer at Point Of Sale
ESC	Essential Services Commission
FCLC	Federation of Community Legal Centres Victoria
GMTLR	Greater Melbourne Taxi Licence Release
GPS	Global Positioning System
GST	Goods and Services Tax
IPART	Independent Pricing and Regulatory Tribunal
IRR	International Rate of Return
MH	Metropolitan hire car
MPTP	Multi Purpose Taxi Program
NBG	National Billing Group (CabFare)
NCP	National Competition Policy
NDIS	National Disability Insurance Scheme
NMI	National Measurement Institute
NSP	Network Service Provider
NSW	New South Wales
NYC TLC	New York City Taxi and Limousine Commission
OH&S	Occupational Health and Safety
OIML	International Organization of Legal Metrology
PBBS	Performance Based Booking Service
PBO	Pre-Booked Only cab
PCI	Payment Card Industry
PwC	PricewaterhouseCoopers
RACV	Royal Auto Club of Victoria
RBA	Reserve Bank of Australia
RH	Registered Hire
RTO	Registered Training Organisation
SV	Special Purpose Vehicle
TIA	Transport Integration Act 2010
TII	Taxi Industry Inquiry
TISV	Taxi Industry Stakeholders Victoria Incorporated
TSC	Taxi Services Commission
VCAT	Victorian Civil and Administrative Council
VCOSS	Victorian Council of Social Service
VDAC	Victorian Disability Advisory Council
VECCI	Victorian Employers' Chamber of Commerce and Industry
VEIC	Victorian Events Industry Council
VEOHRC	Victorian Equal Opportunity and Human Rights Commission

VSBC	Office of the Victorian Small Business Commissioner
VTA	Victorian Taxi Association
VTD	Victorian Taxi Directorate
VTIC	Victorian Tourism Industry Council
WAT	Wheelchair Accessible Taxi
WCAV	Wedding Car Association of Victoria